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Winter 1992

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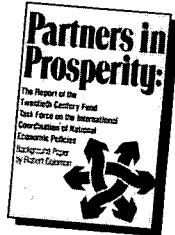


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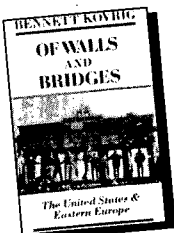
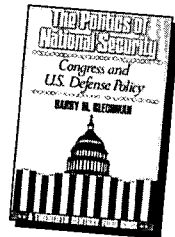
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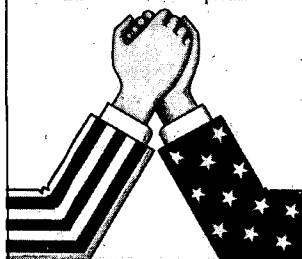
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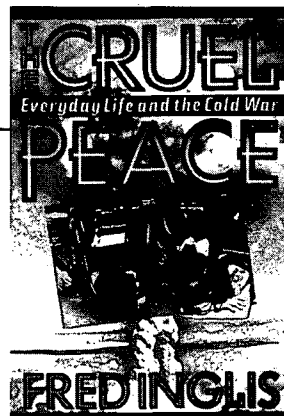
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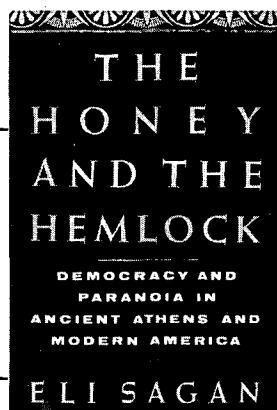
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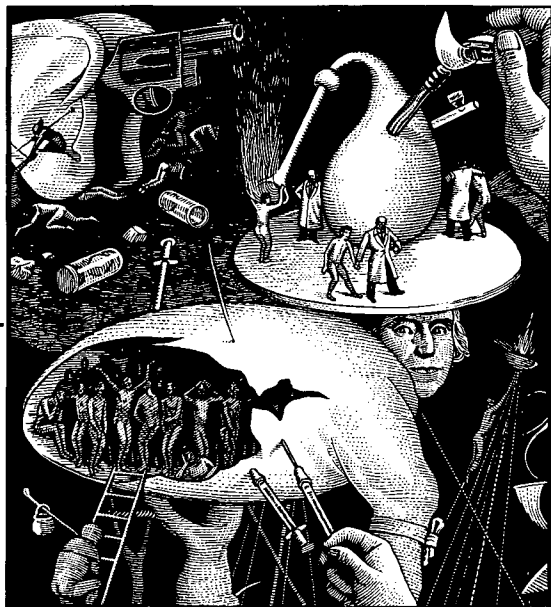
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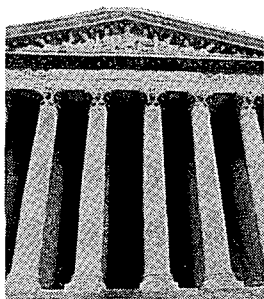
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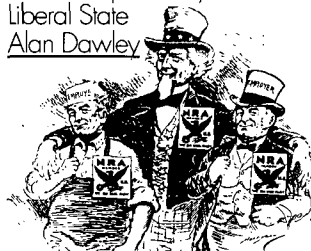
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# Civil Reconstruction

## What to Do Without Affirmative Action

Paul Starr

The time is approaching when we will have no alternative but to find a new road to equal opportunity in America.

With the confirmation of Clarence Thomas, the Supreme Court now will likely have a black justice among the majority when it votes to overturn *Regents of the University of California v. Bakke*, the 1978 decision upholding affirmative action at public institutions. The Court may also overturn or restrict the precedent set in *United Steelworkers v. Weber*, the 1979 decision approving private affirmative action plans. These cases, like others concerning affirmative action that came before the Court prior to 1989, were originally decided by narrow majorities that no longer exist. *Bakke* and *Weber*, for example, were both decided by 5-4 votes, and in *Bakke* no opinion represented more than four justices. In 1989 the Court seems to have taken a decisive turn when it voted 6-3 in *City of Richmond v. J.A. Croson Co.* to throw out Richmond's requirement that city contractors set aside 30 percent of the value of subcontracts for minority-owned businesses. The majority in *Croson*, except for Justice Stevens, supported criteria for race-based remedies that appear to rule out most governmental affirmative action programs. And of the three dissents from *Croson*, two came from recently retired Justices Thurgood Marshall and William Brennan.

On affirmative action, Justice Thomas will probably give the Court's conservative bloc not only an additional vote, but a legitimacy that an all-white majority would not have had. How quickly the Court's decisions will come, or how sweeping they

will be, is not clear. But the prospect of a sharp curtailment of affirmative action, or even its end as we have known it, should awaken us to the world that lies ahead and force us to think through alternatives.

Americans concerned about reducing racial inequalities ought to look, it seems to me, in two directions—toward the reconstruction of civil society in minority communities and toward the promotion of broad policies for economic opportunity and security that benefit low- and middle-income Americans, black and white alike.

Building up civil society means strengthening "intermediate" institutions, lying between the state and the individual, such as community associations, schools, media, and independent social agencies, which provide the organizational foundation for collective development and effective public representation. Because of the legacy of slavery and discrimination, black institutions have never had the capital resources of comparable, predominantly white institutions. Rather than trying to come up with new preferential policies to redistribute individual opportunity in educational and job competition—thereby generating hostility among those who feel their own personal opportunities have been sacrificed—liberals should support a renewal of minority institutions, backed by fresh capital support. This approach can survive a conservative Court and even create opportunities for cooperation across ideological lines, drawing together liberals and conservatives, black separatists and integrationists.

Inevitably, however, this program

would confront limits due to wider economic and social problems that hit blacks and Hispanics with particular force, such as a slack economy and scarce employment opportunities, eroding incomes in lower brackets, lack of access to health care and rising costs, and increased child poverty. But rather than address such problems with racially targeted programs, we should consistently emphasize broad-based, race-neutral policies that make sense on their own—for example, public investment, national health reform, an enlarged earned income tax credit, child support assurance, and other policies benefiting families with young children. Widely supported programs that promote the interests of both lower- and middle-income Americans—and that deliver substantial benefits to minorities on the basis of their economic condition—will do more to reduce minority poverty than narrowly based, and hence poorly funded, measures for minority groups or the poor alone. These efforts can also be designed to dovetail with intermediate institutions and thereby to contribute to the overall process of civil reconstruction and renewal.

Neither of these approaches implies any diminished commitment to fight racial discrimination. But the fight against discrimination will generally have to be pursued with means provided by civil rights law other than preferential hiring and similar practices adopted under the rubric of affirmative action. This will be hard for many liberals and progressives to accept. But the judicial and political obstacles to maintaining preferential policies have become overwhelming.

**A**ffirmative action has taken on high symbolic importance, not because of its objective impact on economic opportunities, but as a result of a kind of “antagonistic cooperation” between its opponents and supporters. On the one hand, Republican opponents have found it politically useful to attack “quotas” to pry away white support from Demo-

crats. On the other hand, with the retrenchment of other federal social programs, minority representatives have fought hard to hold on to one policy in their favor not dependent on the federal budget. Together, the two sides have exaggerated the effects of affirmative action, confusing them with the broader and less controversial achievements of the civil rights revolution.

Originally, affirmative action meant outreach for minority candidates for college admissions, jobs, and contracts; in that sense, it does not raise constitutional problems. Affirmative action has also, however, come to refer to a policy of racial preferences in decisions about educational and economic opportunities, designed to remedy either a historic pattern of discrimination in a particular institution or general, societal discrimination or to achieve balance or diversity in line with contemporary demographic patterns. The constitutional and political problems concern affirmative action in this second sense, especially where the justification lies in broad societal purposes rather than remedying a demonstrated pattern of discriminatory practices in a specific firm, governmental body, union, or university.

For many, affirmative action in the extended sense has become a litmus test of loyalty to civil rights and minority interests. But it has never been a good test. The direct effects of affirmative action on the structure of opportunity have been modest, and its broader social and political ramifications at best mixed. As William Julius Wilson has written in these pages, affirmative action has probably helped those members of minority groups best poised to take advantage of opportunities for higher education and the professions, but it has done little for the poor.<sup>1</sup> Wilson’s critics sometimes say that it is unreasonable to expect affirmative action to alleviate poverty. Yet if there were no poverty among racial minorities, affirmative action would not have had much moral claim in the first place.

1. See “Race-Neutral Policies and the Democratic Coalition,” *TAP*, No. 1, Spring 1990.

Affirmative action has improved minority representation in the professions and at some corporations, universities, and public agencies. But while this is a genuine positive benefit, it has not come without cost. Even the predominantly middle-class members of minority groups who have directly benefited from affirmative action have been hurt by its unintended social and psychological side-effects. For on one point, I believe the critics of affirmative action have been right: Affirmative action policies have helped to perpetuate racism. In educational institutions, whites are inclined to believe that blacks have been admitted with lower scores and lesser abilities and accordingly expect blacks to perform less ably than whites. These expectations are an insidious by-product of a well-intentioned policy. In the workplace, too, affirmative action provides a basis for expectations and attitudes that used to be based wholly on prejudice. Suspecting that whites harbor doubts about their competence, blacks understandably feel embattled, angry, and resentful. The whole atmosphere of race relations is poisoned.

While ineffective as a strategy for reducing minority poverty, and indirectly contributing to the persistence of racism, affirmative action has taken a big political toll: deep and continuing antagonism from whites, particularly in the working class, who believe their personal opportunities are being taken away from them by a coalition of minority groups and liberal elites. The result has been more political support for the right, and less chance of enacting the kind of positive legislation that would especially benefit low- to middle-income Americans of all races.

Many supporters of affirmative action simply want to close their eyes to its perverse social and political consequences; others recognize those effects but feel they must be combatted or, if unavoidable, endured. Conceding any criticism of affirmative action has seemed to them tantamount to intellectual surrender. They see no progressive alternative. A Supreme Court

decision against affirmative action, however, should make a search for liberal alternatives not only respectable, but urgent.

Exploring alternatives, however, may not be the first impulse in the wake of a Court decision overturning *Bakke* or other precedents. At that point, many liberals and progressives will turn to Congress to reverse the Court, as current civil rights legislation reverses several recent Court decisions regarding job discrimination. But in overturning *Bakke*, the Court may virtually preclude any congressional reversal by ruling racial classifications and preferences constitutionally impermissible, except as a narrowly tailored remedy in specific cases of discrimination. On the other hand, in restricting or overturning *Weber*, the Court would be revising its interpretation of a civil rights statute, and Congress could respond with a statute giving explicit approval to private affirmative action plans.

Yet while Congress could respond to a reversal of *Weber* that way—and many liberals will demand that it do so—this seems highly unlikely to happen. Democrats are now all too conscious of the price they have paid for *appearing* to be the party of quotas. Politically, affirmative action is not like abortion. The defense of abortion rights can be carried into the political arena with good chances of success because there is ample public backing for those rights—in many states, strong pro-choice majorities. Affirmative action, however, does not enjoy that level of public approval. Opinion surveys, in fact, show wide majorities against it. A September 1991 *New York Times*-CBS News poll, for example, asked whether preferences should be given to black applicants if a company had discriminated against them in the past. Even on this question, which presented affirmative action as a specific compensatory remedy, 60 percent opposed any preferences, and only 20 percent said preferences were justified. (The remainder thought it depended on circumstances or had no opinion.) Because

public support is weak, civil rights groups have hesitated to seek explicit legislative authority for preferential hiring, even in the case of the federal government, where it rests on an executive order signed by President Johnson in 1965.<sup>2</sup>

Nonetheless, the curtailment of affirmative action may mean less than is generally expected. First of all, much of what is conventionally attributed to affirmative action will be sustained under antidiscrimination law, including the 1991 civil rights legislation (although this may be complicated if the Court unleashes a new wave of reverse discrimination lawsuits). Furthermore, affirmative action is now a firmly established institutional practice, indeed virtually a reflex of many university, corporate, and political decision makers. (As Mr. Bush's appointment of Clarence Thomas illustrated, even conservatives need the legitimacy of multiracial representation.) Just as discrimination did not end with formal rulings against it, neither will affirmative action end with formal rulings.

This may seem like a strange argument for its survival. But white Americans' ambivalence about race has two sides. Prejudice against blacks and Hispanics and a countervailing preference in their favor, racial exclusiveness and egalitarianism, coexist in the same people, producing reactions toward racial minorities of fear and rejection in some contexts and a solicitous, sometimes patronizing bending-over-backward in others. White Americans might best be rid of both types of response, but while one persists, so will the other.

A formal ruling against affirmative action will also be at least partially blunted as

2. On November 20, on the eve of the signing of the civil rights legislation, the White House released a draft of an order abolishing racial quotas, preferences, and set-asides in hiring by the federal government and federal contractors. President Bush, however, decided against signing it, reportedly in part because of opposition from business, which has institutionalized affirmative action and does not want to be subjected to conflicting legal guidelines. Although observers were not ruling out later action by the President, Bush may have chosen to let the the Court do what he would rather not do himself.

some institutions find functional substitutes for racial preferences under the rubric of more general, non-racially defined policies promoting diversity. In university admissions, there is already a move afoot to adopt affirmative action for the socioeconomically disadvantaged of all races. Because blacks form a higher proportion of the disadvantaged, they could benefit from such a policy. But, as Andrew Hacker has recently pointed out, socioeconomic affirmative action in college admissions will mainly benefit whites and Asians, not blacks<sup>3</sup>—at least not until there is more progress in minority education at earlier ages. If educational inequalities are to be reduced, that is surely where the emphasis must be. To expand minority opportunities for college, we should also seek to strengthen historically black institutions and to enact a broad, progressive program for the financing of postsecondary education. Here, as elsewhere, we need complementary strategies—communal self-development and race-neutral social policy.

**A**mong black Americans, the ideal of communal self-development has had both conservative and militant expressions. The conservative vision of communal self-help conceives it as the opposite of state help. As self-reliance is to the individual, so communal self-development is to the group. Self-sufficiency has an obvious appeal to the many Americans who believe, often mistakenly, that people of their background rose by sheer grit, without benefit of state support. In this sense, the strategy of self-help is an accommodation to the dominant groups and national mythology. In contrast, the militant version of communal self-help sees it as the means of realizing separatist and nationalist aspirations. In its separatist form, the strategy represents, not an accommodation to the dominant culture, but a withdrawal from it into an ethnic enclave.

3. Andrew Hacker, "Playing the Racial Card," *New York Review of Books*, October 24, 1991, 18.



Yet support for communal self-help ought not to depend on either of these views. Communal self-development need not exclude complementary support by the larger society and state, and it need not imply or represent any sort of collective withdrawal from it. On the contrary, communal self-development seems more likely to flourish with access to resources beyond those the minority community itself can provide. And, rather than leading to withdrawal, strengthened intermediate associations can help to mobilize political participation. If conventional civil rights approaches have aimed at individual integration, the strategy of communal self-development aims at a kind of collective integration: putting minority institutions on a more equal footing with those of society's dominant groups.

Before the revolutions of 1989, much of the effort to open up Eastern Europe—notably the foundations established by the Hungarian-American financier, George Soros—focused on the renewal of civil society. In practice, that meant developing and sustaining a rich variety of associational life, from the seemingly trivial and politically innocent (chess clubs, historic preservation societies, music groups) to the politically dissident and outspoken (independent newspapers, reform organizations). The problems of recreating civil life after the devastation of communism are obviously different from those of reconstructing community life in America's ghettos and fighting minority poverty. But, in both cases, there is a fundamental need to overcome social isolation and cultivate the indigenous forms of organization vital to a flourishing community life, economic development, and effective political power.

**A** concern with the development of civil society in minority communities has a cross-cutting appeal—to conservatives, because it emphasizes nongovernmental means; to minority communities, because it conveys respect for their autonomous and in-

digenous institutions; to the public at large, because it favors the kinds of institutions that promise to bring order and stability to violence-torn ghettos.

Some liberals and progressives may worry that support for community self-development is tantamount to an acceptance of separatism. But other ethnic and religious groups have strong communal institutions without anyone raising the specter of separatism. Those institutions have, in fact, facilitated their integration into the society. Even if some black institutions have a separatist philosophy, the history of the black community and the economic realities of American society strongly suggest that separatism is unlikely to command general support from black Americans.

Others may object that an emphasis on community self-development is reminiscent of community action programs of the 1960s—reminiscent, yes, but the same, no. Those programs typically sought to create new organizations, while this approach calls for building on the affiliations and associations already in existence. In addition, the emphasis here would be on capital support, and money could be disbursed as “challenge” grants, requiring additional fund-raising to help diffuse and reinforce practices of communal savings and investment.

**B**ut will white Americans be willing to devote any substantial resources to this enterprise? Does white America owe black America resources for community self-development? I think it does, although I recognize the difficulty of persuading a public already restive about taxes that they owe what amounts to—let us use the correct word—reparations. Slavery and its aftermath deprived blacks as a community of opportunities to accumulate wealth. Even today the black middle class is not at all comparable to the white middle class in wealth. Overall, according to a study based on 1984 data, black households have only one quarter the net worth and 11 percent of the net financial

assets of white households. Astonishingly, white households with annual incomes between \$7,500 and \$15,000 have higher mean net worth and net financial assets than black households making \$45,000 to \$60,000.<sup>4</sup> The lack of assets is not just an individual problem; the black community as a whole stands to inherit relatively little wealth from one generation to the next.

I am not under any illusions that a program of reparations can now be sold to the electorate. But I do find it conceivable that private philanthropy would recognize such obligations and lay the groundwork for a new National Endowment for Black America, to serve as a mechanism for receiving capital contributions and supporting a variety of social and cultural organizations in the black community. (It could also support the development of minority businesses with programs aimed at fostering entrepreneurship.) Once in existence, the endowment might gradually become recognized as a primary, legitimate mechanism for receiving public as well as private funds and providing capital support to black institutions.

As the careful reader will have observed, I have increasingly used the word "black" rather than "minority." This is not by accident. While strengthening intermediate institutions among Hispanics and other minorities would also be worthwhile, I believe the obligations of the United States to black Americans are historically singular. It is to black institutions that reparations should properly be paid. And because the problems of social isolation and decline of civil society are more acute in the black ghettos, the case for emphasizing civil reconstruction in black America is especially strong.

But would a National Endowment for Black America be subject to the same criticism as affirmative action and likely to

generate the same white opposition? The crucial difference is that this approach provides resources to institutions rather than individuals and thereby sidesteps charges that compensatory programs undermine meritocratic standards. Unlike affirmative action, it does not affect decisions about individual careers and thereby avoids generating the sense of personal grievance that affirmative action has produced among some whites. As I imagine it, the National Endowment for Black America would be a private institution—the private, race-specific branch of a strategy whose public branches are race-neutral.

Even with much greater capital support, however, community self-development will fail unless combined with broader social policies. The example of higher education is illustrative here. America's major universities benefit from large capital endowments, but none of them draws most of its operating revenue from those endowments. Large numbers of tuition-paying students from affluent families help defray the institutions' costs. Even if some historically black colleges had comparable endowments, their students' families would not be able to pay comparable tuition.

Moreover, the opportunities of black students at predominantly white colleges depend critically on the availability of financing. As the past decade's experience of declining black college enrollment demonstrates, minority access to higher education depends as much, if not more, on strong national support for college financing than on affirmative-action admissions. If minority students cannot afford college, preferential admissions policies are an empty gesture, as well as an invitation to white resentment.

That is why the plan for postsecondary education presented in these pages by Barry Bluestone and his colleagues—under which students would repay support for postsecondary education out of

4. Melvin L. Oliver and Thomas M. Shapiro, "Race and Wealth," *Review of Black Political Economy* 17 (Spring 1989), 5-25. Net worth is a measure of all assets minus debts; net financial assets exclude the value of principal residence and cars.

their later earnings as part of income taxes paid to the IRS—represents a more substantial, and more politically sustainable, avenue for opening up real opportunities for lower- and middle-income blacks as well as whites.<sup>5</sup>

The lesson applies to many other areas. Capital endowments provide institutions a margin of security and independence, often vital to developing their own long-term mission. But the day-to-day flow of funds for most private nonprofit organizations typically depends on access to an affluent paying membership or to complementary public programs (and often both). Without the complementary systems of public financing for education, social services, and child care—to mention three of the most critical areas—a strong independent sector in the black community will not emerge.

One intermediate institution that especially depends on complementary public policy is the family. Here, despite conservative claims, liberals have a much better case for representing “pro-family” interests. The right’s pro-family agenda (attacking promiscuity, pornography, homosexuality, and so on) expresses conservative cultural indignation about the contemporary world, but it has little practical value for families. If conservatives genuinely had remedies for today’s high rates of divorce, illegitimacy, and single parenthood, that would be one thing. But they fail to propose means that realistically could achieve those ends.

5. See Barry Bluestone et al., “Generational Alliance: Social Security as a Bank for Postsecondary Education,” *TAP*, Summer 1990, No. 2. Irving Garfinkel has suggested to me that if college financial aid programs gave appropriate weight to family *wealth*, as opposed to income, blacks would receive relatively greater support without any race preference. This is a policy that colleges could adopt without any governmental action.

6. For an earlier discussion of child support assurance as part of an agenda of family security, see Theda Skocpol, “Sustainable Social Policy: Fighting Poverty Without Poverty Programs,” *TAP*, Summer 1990, No. 2.

There ought to be no disagreement, however, on the principle that social policy should aim to support and instill family responsibility. And that is exactly the premise of the emerging liberal agenda of family security. For example, child support assurance, one key element of that agenda, would guarantee public payment of parental (mostly fathers’) support for children; unlike earlier programs, it would collect from the fathers as much of that support as possible. The aim of the policy would be to take child support out of the family courts and the welfare system, making the enforcement of parental responsibility more strict and equal and its evasion increasingly difficult. A thoroughgoing effort of this kind would have a progressive impact on women’s economic circumstances after divorce and sharply cut back the existing welfare system. At the same time, it would also convey a message about the responsibilities of fathers.<sup>6</sup>

Similarly, family leave policies that help parents, usually mothers, spend more time at home particularly in the first year of their infant’s life also convey a message about parental responsibility. If not for the ideological blinders of contemporary debate, family leave would hardly be seen as a distinctively liberal idea. Conservatives have every right to claim it as their own.

Indeed, that is true of much of the agenda I have been outlining. Some may see in it a similarity to the ideas of Peter Berger and Richard Neuhaus, presented in a short book *To Empower People* (1977), often cited as a conservative answer to the welfare state. Unlike American conservatives, I see greater possibilities of complementary and supportive relations between public programs, especially social insurance, and what Berger and Neuhaus refer to as “mediating structures.” I do not accept the conservative hypothesis that public action undermines intermediate institutions; many “points of light” shine only because of public electrification. But while we may have a different sense of the proper public-private balance, there is common ground

here. And common ground between conservatives and liberals, blacks and whites, is what we will need to make progress against racial inequality.

The shift of the Supreme Court to the right is an ominous development for this country. But on affirmative action, it could be a blessing in disguise, forcing liberals and progressives to come up with answers to racial inequality that are both more effective in liberating minorities from poverty and more successful in generating the broad coalitions needed to carry out a wider agenda of reform. The art of politics consists in part of turning adversity into advantage. When the Supreme Court overturns racial preferences, those committed to racial justice should seize the occasion to mark a new beginning in the struggle.

**T**o this plea, I want to add one postscript. Some readers may agree on the desirability of supporting indigenous minority institutions and the kind of broad, race-neutral policies I have described. But they may ask, "Why not do those things *and* affirmative action?"

Aside from the loss of majority support on the Supreme Court, the answer, for me, lies in the social and political consequences of pursuing affirmative action policies. I am not opposed to affirmative action philosophically. I acknowledge the justice of the so-called "backward-looking," compensatory arguments for affirmative action. I do not believe that narrowly conceived meritocratic standards are or ought to be sacrosanct. I would favor affirmative action if, taking *all* its effects into account, it were positively beneficial.

But with the positive effects of racial preferences have come many unhappy ones—sustaining racism, stigmatizing much minority achievement as "merely" the result of affirmative action, creating a sense of grievance among whites who then feel entitled to discriminate, and blocking the formation of bi-racial political alliances necessary to make progress against poverty. Affirmative action in its original sense of

outreach should survive. But in the interests of reopening the blocked path to equal opportunity, I ask my friends who have defended affirmative action in its extended meaning to consider the larger cause that it now poorly serves. ♦

## Suite Greed

Robert B. Reich

**B**ut for the fact that Democrats are now drinking from the same campaign-finance trough as Republicans, the scandal of executive salaries would be a major issue in the 1992 campaign.

The scandal has been growing for years, of course, even before the Reagan-Bush greed decade. In 1960, the chief executive of one of America's 100 largest nonfinancial corporations earned, on average, \$190,000, or about forty times the wages of his (rarely her) average factory worker. After taxes, the chief executive earned twelve times the factory worker's wages. By 1990, the chief executive earned, on average, more than \$2 million, not even including stock options that hadn't yet paid out—a sum equal to ninety-five times the wage of his average factory worker. The regressive shift in the tax burden during the Reagan-Bush years has made the disparity even more absurd. After taxes, the 1990 chief executive's compensation was seventy times that of the average factory worker.

Now, after three years of bad economic news, with the American economy still mired in recession—and ten million Americans unemployed and countless more too discouraged even to look for work—what was simply absurd has become grotesque. As American corporations lay off platoons of workers, CEO salaries continue to balloon. And the Bush administration suggests



no way out of the economic mess other than a capital-gains tax reduction, which will make CEOs even richer.

A few months ago, Time-Warner announced that it was laying off 600 of its employees, including nineteen correspondents of the conglomerate's flagship, *Time* magazine. Henry Luce used to pride himself on never laying off anyone; the institution he created was wealthy enough to recruit talented people and keep them for life. But the Time-Warner merger created a mountain of debt and has seriously crippled the company—apparently requiring that the staff be cut. All this would be sad, but perhaps understandable, had Time-Warner's CEO, Steve Ross, not pocketed \$74.9 million in bonuses last year, atop his salary of \$3.3 million. The portion of taxes he paid on this tidy sum was far less than he would have paid before the Reagan-Bush years; a capital-gains tax reduction would give him even more to take home. Prior to the 1980s, it's doubtful that Time and Warner could have consummated their questionable deal to begin with.

Orthodox free-marketeers argue that if CEOs get this much money for their labors, they must be worth it. Film stars and winning athletes also earn huge sums of money. But there is no economic justification for recent astronomical CEO earnings. They are unrelated to company performance. Last year, CEO salaries rose by an average of 7 percent, but corporate profits dropped about the same amount.

Even the private sector has begun to complain. After last spring's annual publication of executive pay-hikes, *Business Week* called CEO compensation on this scale "dangerous." *Fortune* warned that it invited a political backlash. A few pension funds and major investors are asking embarrassing questions. One of America's most prominent compensation experts, Graef Crystal, who used to advise major companies on setting CEO salaries, recently quit the business and went public with his outrage in a new book (*In Search of Excess*, just published by Norton).

So if they're not adding that much value to the corporations they head, how do CEOs do it? Easy. They sit on one another's boards of directors, and, after sober deliberation, agree to give one another huge salaries, bonuses, and perquisites. It is rather like a group of monkeys sitting in a large circle with their backs to one another, scratching.

Foreign-owned corporations, most of which have outperformed American companies in recent years, pay their CEOs far more modestly. In 1990, according to a survey by the compensation specialists Towers, Perrin, Forster, & Crosby, the typical U.S. chief executive officer of a medium or large company (sales of at least \$250 million) earned, on average, \$543,000, in salary, bonus, and perquisites. This is at least 50 percent more than the earnings and perks of a Japanese executive (\$352,000), and 90 percent more than the total compensation of German and British CEOs (averaging \$287,000). Consider also that the American CEO's dollar goes further: The typical CEO can buy much more in America than a similarly paid executive in Japan or Germany.

**T**he problem is not that American CEOs are draining corporate treasuries. Even absurdly high CEO salaries rarely constitute a significant percentage of the corporation's revenues. The problem is more subtle. The only way American companies can become as productive, flexible, and innovative as they need to be to meet global competition is with the total support and commitment of their work forces. But the widening gap between CEO compensation and the earnings of workers at the lower end is sapping morale and reducing commitment.

Several years ago I wrote a book about the Chrysler bailout. After interviewing hundreds of Chrysler managers and production workers, it became clear to me that the taxpayer's help wasn't the most important reason why Chrysler had survived the crisis: It was because everyone in the com-

pany—from top to bottom—had been willing to sacrifice something to keep the operation going, and get something in return if it survived. Shop-floor workers agreed to a big cut in wages, in return for a share in future profits (if there were any); Douglas Fraser, the president of the United Auto Workers (UAW), was put on Chrysler's board; Lee Iacocca agreed to take one dollar in compensation in 1981.

That was then. Now is now. By the mid-1980s, with Chrysler's health seemingly restored, the company terminated its profit-sharing agreement. The UAW no longer has a seat on the board. And Lee Iacocca isn't working for one dollar. In 1986, when Chrysler seemed to be out of the woods, Chairman Lee took home \$20.5 million. Even last year, as Chrysler's earnings dropped and its market share continued to dwindle, and as Chrysler began laying off large numbers of its workers, Iacocca earned \$4.8 million. (It should be noted that Nobuhiko Kawamoto earned \$356,000 last year, including perks. Kawamoto, in case you didn't know, is the CEO of Honda, now America's third-largest automaker.) I've spoken with several of the Chrysler workers I interviewed in the early 1980s. They're angry. Every one of them has mentioned Iacocca's compensation.

**W**hat to do? For one thing, the managers of pension funds and other investment institutions could get more actively involved fighting this craziness. They may, but don't forget that these large institutions make money by moving in and out of large issues of stock very rapidly depending on where they think the market will go next. There is no reason for them to stop long enough to

complain about how a specific company is being managed.

Here's another idea. In a long line of cases and rulings, the Internal Revenue Service has determined that any "excessive" or "unreasonable" compensation awarded by a company to one of its executives may not be deducted from the firm's taxable earnings—because it is not a legitimate business expense but more like the payout of a dividend. Granted, the IRS hasn't pushed this concept very far. The last time it raised the issue was in the recent bankruptcy of Drexel, Burnham, where the IRS claimed that Drexel had wrongfully deducted from its taxable earnings millions of dollars that it had paid Michael Milken (including \$600 million or so in 1986).

But, as lawyers say, there is at least something of a precedent. Why not a law? Any executive compensation (including the market value of stock options and bonuses) in excess of twenty times the earnings of the lowest-paid worker in the firm shall be deemed "unreasonable," and thus may not be deducted as a business expense.

A modest law, to be sure. It would not put an end to excessive executive compensation. But it might at least force the corporation to reconsider. More important, it would establish a benchmark—a publicly accepted standard for executive compensation. Any executive whose compensation exceeded the benchmark, and any company that so rewarded its executive, would bear something of a burden of proof to justify the compensation—not in a court of law, but in the court of public opinion.

Right now, there are no standards. There is no responsibility, just greed in executive suites and simmering resentment below. That's no way to build an economy. ♦

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## Letters

### *What's Worth Saving?*

To the Editors:

Conscientious liberals need not stir themselves to rally around Ron Chernow's suggestions for progressive bank reform ("Why Save the Banks?" *TAP*, Summer 1991). These proposals are already amply championed by the lobbyists from Morgan Guaranty, Citibank, Chase Manhattan, General Electric, Ford, GM, the American Bankers Association, and many other allied interests. His ideas are actually their ideas. If the "liberal position" means worrying about the profitability of Wall Street banks, then we really have reached the end of liberalism.

William Greider  
Washington, DC

### Ron Chernow replies:

Bill Greider substitutes a devil theory for tough analysis: If Morgan Guaranty or Citicorp supports a position, it must, *ipso facto*, be evil, an insidious act of self-interest. I plead guilty to caring about the profitability of Wall Street banks and all American banks for that matter. The alternative is a massive taxpayer bailout. Obviously, my piece was an iconoclastic one for a liberal periodical. But I think I deserve more than a glib, self-righteous brush-off.

### *Code Words*

To the Editors:

I congratulate *The American Prospect* on a superb symposium on "Fighting Words" (Summer 1991). Taken together, the three articles provide a graphic rendition of the range of arguments on the troubling issue of hate speech on college campuses.

May I briefly note my two reasons for being unpersuaded by Cass Sunstein's valiant attempt to justify Stanford's "nar-

rowly drawn rule against 'harassment by personal vilification.'" First, by offering college administrators the discretion to determine whether particular speech is "intended to insult or stigmatize" an individual or small group because of their "sex, race, color, handicap, religion, sexual orientation, or national and ethnic origin," the Stanford rule virtually invites selective enforcement, the picking and choosing of whom to charge. In this volatile area, where strong political and social pressures from interested portions of the campus community can be confidently predicted—a conclusion based on thirty years of teaching at several universities—there is no way for decisions to prosecute speech to be immune from such pressures. Perhaps more important, there is no way for the decisions to *appear* unbiased to groups whose members are proceeded against.

My second reason relates to the futility of even such carefully crafted codes as Stanford's. All but the tiniest fraction of hate speech will escape official attention if it is necessary to prove "fighting words" or "non-verbal symbols" addressed "directly to the individual or individuals whom it insults or stigmatizes." It is surely chimerical to expect the code remedy to do much to alleviate the "hate" problem.

True, codes backed by sanctions have the virtue of expressing official disapproval, but such disapproval can be voiced eloquently without enduring the harm that such codes will inevitably inflict on free expression in universities, as Franklyn Haiman's article shows very well. There is, I think, no serious alternative but to address this issue through the undramatic, relentless effort to educate, to challenge, to speak and speak again against all forms of bigotry.

Norman Dorsen  
New York, NY

*Mr. Dorsen is a professor of law at New York University and a past president of the American Civil Liberties Union.*



### Cass Sunstein replies:

Norman Dorsen's very thoughtful response depends on empirical claims that may well be untrue. He thinks that Stanford's narrowly drawn code will apply only to "the tiniest fraction of hate speech," but there have been many incidents on campus in which that narrow code would in fact apply. The fact that a narrow code would not "alleviate the 'hate' problem" testifies only to its respect for First Amendment values. It does not demonstrate that the code would not do some considerable good.

Dorsen also fears that the Stanford code "virtually invites selective enforcement." But much broader restrictions on hate speech are in force in almost all Western democracies, and there the problem of selective enforcement has proved minor. I do not see the basis for Dorsen's confidence that a narrowly drawn rule will be and will appear selectively enforced. In any case, my major argument is not that the Stanford approach is a good idea, but that it does not offend First Amendment principles, as those principles have been understood in other areas of the law. Dorsen's policy concerns are best addressed to colleges and universities now addressing these issues on policy grounds, rather than to those thinking about the meaning of the Constitution.

### *Of Productivity and Party Lines*

To the Editors:

In his article, "A New Picture of the American Economy," (TAP, Fall 1991), Professor James K. Galbraith offered some comments on our book, *Productivity and American Leadership: The Long View*, which may be misleading to those readers who do not know the literature on productivity growth.

First, we want to make it clear that many of the points made by Professor Galbraith are well taken and important. For example, we emphatically agree that

quality improvements are often overlooked or inadequately weighed in discussions of productivity growth. Clearly, if the economy produces better products today than it did yesterday, but does so at the same real cost as in the past, productivity must have gone up in a very substantial sense. The fact that this has occurred only strengthens the basic point in our book: Virtually all the pertinent macroeconomic data indicate consistently that American growth performance is far better than is commonly believed. We also agree that the stage of the business cycle strongly influences short-term productivity performance, and that recessions may consequently account in part for the marked slowdown in productivity growth since 1970 in the U.S. and in virtually every other industrial country.

Having agreed with these major observations of Professor Galbraith, it may seem rather petty to raise the relatively minor issue of the impression he leaves about the content of our book. Still, having been urged by several readers to set the record straight, let us try to do so rather briefly. First, let us emphasize that we know of nothing in our book that conflicts with either of the two observations summarized in the preceding paragraph. On the contrary, both points are noted briefly, though they are not emphasized by us since they are not crucial for the main topics of our book. In particular, since the book does not even comment on the debate about the causes of the ubiquitous slowdown in productivity growth, we can hardly have underemphasized the role of recession as one of the explanations. Second, Professor Galbraith seems to leave the reader with the impression that there is an MIT "party line" on the issue of productivity which is perhaps tantamount to a conspiracy. Much as we like our colleagues at that institution and esteem their abilities, we must emphatically deny it. Indeed, it may be more accurate to describe our viewpoint to be the direct opposite of that of Professor Der-

touzos and his MIT colleagues in their valuable book that Professor Galbraith pairs with ours. Though there are ways in which the positions of the two volumes can perhaps be reconciled, their emphasis is upon the extreme competitive difficulties facing U.S. firms as a result of their mediocre productivity performance, while our focus is the continued American leadership in productivity in general and in manufacturing in particular.

William J. Baumol  
Sue Anne Batey Blackman  
Edward N. Wolff

### *Choice Cuts*

To the Editors:

I am writing in response to "The Flawed Vision-Deregulation and Public Choice," (*TAP*, Summer 1991) in which Peter Kahn sets up a straw man and then triumphantly knocks him down. Surely no advocate of public choice theory would argue that organized special interests only intervene in the political arena in favor of specific government actions; they can also intervene to prevent actions.

Public choice theory is clearly a valuable tool for analyzing social issues. If Mr. Kahn doesn't believe me, read the rest of the magazine. The Summer 1991 issue also carried:

- an article on reforming the banking system which discussed the disproportionate influence of special interests in banking regulation;

- two articles on health care reform which both discussed the influence of doctors and the health care industry in general on reform legislation;

- an article opposing term limitation legislation on the grounds that the resulting legislature would be more susceptible to influence by special interests

Indeed, the whole issue is suffused with issues which are better illuminated when viewed through the lens of public choice theory. Rather than trying to debunk the theory, Mr. Kahn should at-

tempt to show how particular political strategies can ensure that government power is used by special interests for liberal purposes.

James J. Bante  
Rochester Hills, MI

### *Peter Kahn replies:*

Mr. Bante simply misinterprets the thesis of my article. I do not attempt to "debunk" public choice theory; rather, I dispute the claim that public choice theory establishes any necessary case against government regulation. Indeed, I use public choice theory to demonstrate that decisions not to regulate are equally a consequence of the power of special interest groups, and that some markets are "unregulated" because of the pervasive influence of interest groups on our political system.

Even assuming (as I do) that public choice theory is correct, it establishes no clear policy conclusions about the role of government, as many of its advocates claim. Mr. Bante and I agree that the right response to the insights of public choice theory is not to abandon government, but to design a better political process.

### *Mental Health Madness*

To the Editors:

In "The Rehabilitation of the Asylum" (*TAP*, Fall 1991), David J. Rothman despairs over out-of-date issues (stuff 'em back in asylums? Get real!) and dismisses current efforts to build decent lifestyles for the mentally ill, including the homeless, in their communities. I am dismayed.

The system of community care evolved by pragmatists over the past twenty years allows new patients to stay in their neighborhoods while the homeless return to sheltered situations and blend back into society. Unfortunately, in most communities this system is disjointed, missing parts, grossly underfunded, and shackled to laws that hinder.

(continued on page 96)

Jonathan S. Cohn

## Making the Wrong Pitch for Relief

Middle-class tax relief was still a political long shot when Robert Greenstein wrote about it for *The American Prospect* ("The Kindest Cut," Fall 1991). Of the three proposals then under consideration, the bill sponsored by Senator Al Gore and Congressman Tom Downey—which offered refundable tax credits to all families with children and paid for them by raising taxes on the rich—was Greenstein's choice.

Rival bills have since proliferated, and the issue now seems entrenched atop the domestic agenda. But while the Democrats sense middle-class tax relief is a political winner, they cannot agree on whose plan to embrace.

Senate Finance Committee Chairman Lloyd Bentsen has modified the proposal Greenstein originally rejected: He now includes a modest child tax credit with a restored Individual Retirement Account (IRA) deduction, and wants to pay for it with cuts in defense spending. Senator Bill Bradley offers a version of the Bentsen bill, but promises more relief for middle- and lower-income families. House Ways and Means Chairman Dan Rostenkowski calls for broader tax cuts offset by tax hikes on the rich, but frets his colleagues will add Republican-style capital gains cuts to the final package.

The proliferation of conflicting plans has left the original architects of tax relief discouraged, and with good reason. As a means for making the tax code more progressive, tax cuts makes sense; as a means for stimulating substantial economic growth, they do not. Yet growth talk now dominates the tax reform rhetoric, and that has left many Democrats backing plans that do relatively little to benefit middle- or lower-income Americans, while simul-

taneously squandering the tax issue's vast political potential.

The plans differ substantially in the actual tax breaks they offer. Since Bentsen's child-based credit is non-refundable, the millions of Americans already too poor to pay taxes receive absolutely no benefit. Bradley and Gore-Downey, on the other hand, reach these people by offering their child-based credits as direct subsidies to families below the poverty line. Rostenkowski goes even further, offering a direct refund on Social Security to all citizens, regardless of whether they have children.

Who deserves to benefit from tax cuts is certainly an issue worth pondering, and these differences ought to be the center of





debate right now. But the matter has hardly received attention this fall since public discourse has focused almost exclusively on which tax plan will best stimulate growth. Bentsen was among the first to cloud the issue—unveiling his plan on national television in October, he promised it would promote an economic recovery. Since then, prominent Democrats like Bradley and House Speaker Tom Foley have picked up on the theme, and turned it into the rallying cry for their cause.

The desire to promote tax relief as a growth tool is understandable, given the nation's frustration with the lingering recession. And putting more money in the pockets of middle-income Americans, who spend a relatively high percentage of their income, could be a mild stimulus to the economy.

But tax relief will not deliver the kind of growth Democrats like Bentsen and Brad-

ley are promising. It is a fundamental principle of economics that fiscal policy cannot significantly increase growth unless it represents a net change in expenditure. Since all of the current proposals are deficit-neutral—that is, they pay for themselves—none will spur short-term growth.

In truth, prudent tax relief could bolster the nation's *long-term* economic performance, were it part of a broader recovery package that called for public investment in education and infrastructure. But the legislators now touting tax relief as a growth measure make such a package all but impossible, since they would pay for tax cuts with the so-called peace dividend, thus squandering the very funds others would earmark for investment.

What, then, is so appealing about the Bentsen and Bradley plans? Apparently their political feasibility. Despite the President's initial reluctance, a White House compromise with either Bentsen or Bradley now seems quite possible, since vetoing such modest tax measures from such moderate legislators would be politically disastrous: "It doesn't take a political genius to figure out that's not smart politics if you're a Republican," says Heritage Foundation economist Daniel Mitchell.

But this argument for the Bentsen and Bradley approaches also misses the big picture, since a bill that splits the difference between Democrats and the President would blunt one of the Democrats' most potent defining issues for 1992. Bills like Gore-Downey and Rostenkowski constructively polarize the issue of whose class interests the President serves, as their calls for higher taxes on the rich are all but certain to incur a veto. As Democratic Party consultant Stanley Greenberg says, "Overwhelmingly, the Democrats benefit more from a battle with the President than from a compromise."

In this case, short-term political interests and long-term national interests coincide. Making the tax system fairer can help the



Democratic Party, and, more importantly, it can deliver relief to middle- and lower-income Americans. Democrats need only remind themselves that tax relief cannot end the recession, too, since making empty promises of growth is hardly in the best interests of those trying to rebuild America's faith in government.

## College Credits

Barry Bluestone's article promoting a universal tuition "loan" program for post-secondary education to be repaid based on future income ("Generational Alliance," *TAP*, Summer 1990) was a variation on an old theme. Most recently, Michael Dukakis offered a version of the proposal in his 1988 presidential platform. Bluestone's original contribution was to demonstrate that the plan could make economic sense, and to propose funding it through the Social Security trust.

Now, Bill Bradley is serving up another version of the plan. Under Bradley's proposal, the federal government would offer students up to \$33,000 in loans over four years, and require them to pay back the money based on a fixed percentage of their future incomes. The percentage would be the same for all graduates, so that a lawyer making \$300,000 a year would pay back more money than a teacher making \$30,000.

Bradley has not embraced Bluestone's or anybody else's funding scheme—at least not yet. But he has committed himself to putting college tuition aid on the national agenda. Given the nation's frustration with high college costs, he may well succeed this election year.

One potential problem with the approach, as Alice Rivlin, a former director of the Congressional Budget Office, observes, is that many students with high earning potential would likely avoid the program, depriving it of its most reliable source of solvency. Future doctors, lawyers, and investment bankers, facing higher payments, might avoid the pro-

gram altogether. Bluestone addresses this concern by capping at \$50,000 the income subject to the repayment scheme, and Bradley could easily do the same. However, that provision would likely blunt the program's appeal by driving the uniform percentage rate higher.

Also nervous about the Bluestone-Bradley approach are some university officials. At a time when state budgets are stressed and budget-makers are seeking candidates for cuts, they worry that any increase in federal money for higher education will be met with cutbacks in state education funding. But Bluestone makes a good case that even with higher tuition rates state universities would still be a bargain, especially if most of that tuition could be paid with a federal loan pegged to lifetime income.

While not critical of the Bluestone or Bradley schemes, Michael McPherson and Morton Schapiro, authors of a recently published Brookings Institution study, think government energies would be better directed elsewhere. In *Keeping College Affordable*, they argue the real problem today is not merely a shortage of loan money. In their view, the problem is that the current government funding of education keeps tuition down for everyone but falls short of making it affordable for poorer Americans.

The solution, they say, is a radical reallocation of government education subsidies. McPherson and Schapiro would cut back on state funding of universities, presumably allowing tuition to rise. In turn, they would increase the federal payments (not loans but actual subsidies) to individual students, targeting the money to students who most need it. The net effect, they say, would be an increase in overall education opportunity.

The McPherson-Schapiro plan has one obvious drawback: Although the plan would pay for itself in the long run, the immediate effect would be an increase in federal spending. "No more than anyone

else do we have a pile of dollars to point at to pay for our plan," McPherson admits. But as this is a proposal for long-term reform, not the 1992 Democratic Party platform, that shortcoming should not prevent its consideration as a possible initiative for the future.

## Midterm Reprieve

For term-limit opponents like Nelson Polsby ("Constitutional Mischief," *TAP*, Summer 1991), Washington State's rejection of a legislative term limit referendum this November was encouraging: It demonstrated that the term-limit campaign was not the unstoppable popular force its advocates had painted it to be. But the Washington vote was hardly this movement's death knell. If anything, the narrow margin of decision showed the issue will remain contentious for some time.

Distilling from the Washington tally a clear picture of the future of term limits is difficult. Polsby observes that once Washington voters had a chance to digest the measure and confront its potential consequences—House Speaker Tom Foley pointedly reminded voters that he would be among the first to go—the initiative lost much of its momentum. "There's a normal referendum pattern at work here," says Polsby. "Once everyone has heard about it, it loses popularity."

But Mary Ann Best, executive director of Citizens for Congressional Reform, thinks a narrow defeat is hardly a setback for a burgeoning populist movement like hers. To be sure, term limits faced unusual opposition in Washington, where the state's special interests, such as Boeing, rely so heavily on the clout of the state's congressional delegation.

At least fifteen states, including electoral heavyweights like Florida and Michigan, will consider term-limit initiatives this



November. Victory is likely in at least a few, while three other states already have limits for state legislators on the books.

The campaign's broad, bipartisan appeal will make its short-term survival even more certain. Although the term-limits campaign evolved under conservative nurturing, and still counts Vice President Dan Quayle among its best-known advocates, the campaign has proponents in both parties. While opponents can point to a similarly bipartisan base of support, the absence of clear ideological lines on this issue will make a united opposition tough to mount.

The only quick death likely to befall this movement, then, would come at the hands of the courts. Approval of a term-limits initiative for Congress will all but certainly invite a judicial challenge. And those challenges may well succeed, especially since congressional term limits were debated—and rejected—at the Constitution's founding. "The constitutional text is ambiguous, so it is far from certain," says Michael McConnell, a constitutional law scholar at the University of Chicago. "But this court is very inclined toward traditional materials for constitutional interpretation, so I suspect term limits would not hold up." ♦

# Is There a Democratic Economics?

*Robert Kuttner*

**Y**es, there is a Democratic economics. What remains to be seen is whether there is a Democratic politics. The real economic issue is not the current recession, but fifteen years of invisible depression. That should be the focus of the reframed debate. A steady erosion of living standards for wage and salary earners suggests a very different construction of the problem, different remedies, and a far superior politics.

At this writing, George Bush is at last reaping the consequences of eleven years of wrong-headed economic policy. He, and we, face an improbable economic bind, in which annual deficits of \$300 billion are necessary for the economy merely to tread water. For Bush to propose capital gains cuts as a remedy is not only bad economics; as politics it plays into the Democrats' hands. Add to this the shaky condition of banks and real estate markets, the visible decay of public services and infrastructure, the richly deserved voter skepticism about various experiments in deregulation, the consumer worries about further declines in living standards, and you have a situation ready made for an opposition program.

That is the good news. The problem, of course, is that the very same economic deadlock tends to paralyze the opposition imagination. Presumably, fiscal policy is inoperative because of the deficits; monetary policy—cheap money—has arguably reached its limits because the same high deficits preclude very low interest rates without triggering inflation. Until lately, the 1990 budget deal, with its wall between military and domestic expenditures, has seemingly denied us the one available “free lunch”—the peace dividend—though the Democrats lately have awakened to this possibility. Even so, the shifting of modest sums from defense to civilian outlays

would stop well short of real economic transformation.

In addition, the accumulated structural damage of the Reagan-Bush era also seems to thwart an opposition program, for some problems have no quick fixes. The banking sector, on which ordinary commerce depends, is seriously weakened; the overbuilt commercial real estate that gluts downtown Los Angeles, Houston, Denver, Boston, functions as a slow-fused time bomb that will continue to bleed bank balance sheets and leave banks hesitant to lend. The destruction of public agencies under Reagan has eroded voter confidence in public remedy. As universal health insurance edged back onto the public agenda, former Deputy Secretary of Health and Human Services Constance Horner warned that a government-run health program

would have all the efficiency of the Postal Service and all the compassion of the IRS.

Also, the Democrats have only partly recovered from the ideological stupor of the 1980s. Throughout the Reagan era, Dem-

*The Democrats should focus on the secular decline in living standards rather than merely the current cyclical downturn.*

ocrats were something of a me-too party. They were pro-business, "too." They supported incentives to capital, "too." Sensing the conservative public mood and the intellectual ascendance of laissez-faire economics, they joined in the assault on regulation, supported selective forms of privatization, abandoned progressive taxation, sacrificed to the fiscal gods even domestic programs that worked. Their ideology was essentially Republican, only a little less so. Some even toyed with such disastrous notions as the means-testing of universal social programs. Even today, many Democrats are not entirely weaned from their recent romance with the conservative regulatory, budgetary, and macroeconomic assumptions of the Reagan-Gramm-Rudman era. And some, like presidential aspirants Paul Tsongas and Jerry Brown, swing oddly between a populist anti-business rhetoric and a cultivation of entrepreneurs.

Although most Democrats have begun to reclaim their historic identity, the confused ideological legacy of the 1980s lives on in institutions like the Democratic Leadership Council and its affiliated Progressive Policy Institute, which recently held a joint conference with the far-right Heritage Foundation, celebrating the "New Paradigm" of entrepreneurship and flexibility. It lingers on in the freelance politics of several key Democratic House and Senate committee chairmen and their close alliance with business interest groups; and it persists in the imperatives of campaign

finance—all of which creates a conservative undertow. But if ever in Democratic politics there were a moment to clarify economic differences rather than submerging them in premature and substantially conservative consensus, it is now.

In fashioning an opposition economics, we need to recognize that the economy suffers from three distinct problems that require three distinct cures. The first of these is short-term, but its cure is neither easy nor conventional. The other two are structural and will require long term, structural remedy. There are points of connection among these three areas, politically and economically. But debate has tended to conflate them into a single problem under the rubric of "growth" or "competitiveness." They need to be disentangled and clearly understood, before an opposition economics can truly emerge. The three tasks are these:

- Economic recovery from a fifteen-year hidden depression.
- The structural reform of economic institutions to enhance productivity and competitiveness over the long term.
- The defense of the working middle class

### *Reframing the Economic Problem*

The context for an opposition economics is the steady decline of middle class living standards throughout the Republican presidency. Indeed, the period since the late 1970s represents a longer—if shallower—trajectory of declining income than even the Great Depression. Not only have wage and salary levels deteriorated for a majority of families. Such basics as health insurance, college tuition, and even home ownership, are increasingly beyond the reach of ordinary middle class Americans. This is very different story from the usual formulation that all the Democrats need is a good recession, and a different, more compelling framing of what is wrong. Democrats





should focus on the secular decline in living standards rather than merely the current cyclical downturn. That entails a markedly different rhetoric, program, and politics. Nor is the issue "distribution" in the static sense, but rather it is how to restore a high-performance economy in a way that benefits ordinary people.

This reality of declining economic prospects, intuitively perceived and resented by voters throughout the 1980s, has finally entered political discourse. The amorphous worry about "the future," first discerned in opinion polls more than a decade ago, turns out to be a justifiable anxiety about living standards. After a decade of inchoate economic distress, the issue now constructs an axis of division between the two parties that could play to Democrats' historic strength as the party of ordinary people.

Two recent defining moments in the repoliticization of economics were the overturning by the Democratic congressional

rank and file of the original 1990 budget deal on distributional grounds, and the reluctant conversation of House Ways and Means Committee Chairman Dan Rostenkowski in November 1991 to the no longer controversial idea of raising taxes on the rich to give the middle class a break. "If you're a middle-class American, you get a tax cut. If you're in the top one percent, you get a tax increase," said Rosty. FDR could have not put it better.

Moreover, there is now, belatedly, an emerging cleavage of views on economic growth—one that also plays to Democratic strength. After an appalling interlude during which many Democrats seemed to accept that equity had to be sacrificed to growth, it is now widely accepted that supply-side economics was a fraud. Reagan presided over a moderate rate of economic growth (2.7 percent per year, well below the postwar average) thanks to enormous deficits, not thanks to supply-side incentives for savings and investment. In

reality, savings rates fell to a new low. Investment also declined—from 17.5 percent of gross national product (GNP) in 1979 to 14.0 percent last year—and would have declined further but for foreign direct investment and loans. The deficits produced temporary macroeconomic stimulus; but they were distributively arbitrary. That is, they might just as well have gone to rebuild public services, finance health care, subsidize parental leave, develop new technologies. Had the Reagan deficits done that, they would have produced the same macroeconomic stimulus—plus some useful things besides. Instead, they went to a military build-up and the tax relief of the well-to-do. And because the borrowing went substantially to support consumption, not increased investment and growth, the accumulated national debt kept rising as a fraction of GNP and the program was unsustainable. Thus, we can jettison the mistaken notion that even Democrats, however reluctantly “must stop fighting over shares of the pie and work to enlarge it.” Rather, the issue can be framed as how to rekindle economic growth in a manner that benefits most working people.

### *Democratic Ideology*

The core economic principles of the modern Democratic Party boil down to these two: Ordinary people who live paycheck to paycheck do not get a fair shake from a self-regulating market, for the market in practice is neither self-regulating nor fair. And in a democratic society the only instrument that can provide the security and opportunity that the market omits is the government. A pure, laissez-faire economy leaves ordinary people vulnerable, creates arbitrary injustices, denies the economy its full employment potential, and produces degradation of public goods such as the environment. That is the common rationale for such diverse policy instruments as macroeconomic management, regulation, public investment, and the social safety net. Ideologically, Republicans claim the economy performs

better when the government just gets out of the way. But the experience of the past decade has refuted the claim. In those areas where government has gotten out of the way—housing, mental health, economic regulation, taxation of business—there has been no spontaneous resurgence led by markets. And in areas where government cannot avoid stewardship—the budget, management of public agencies, supervision of banks, airports, roads, bridges—the Bush and Reagan administrations have made a hash of things.

In the liberal Democratic view, the task of government is not to overwhelm the market but temper it, tame it, domesticate it, and make sure it serves benign purposes. These core principles were submerged during the 1980s, and they are now coming back into fashion. But how to operationalize them in times like these? And how to turn them again into good politics?

To offer a different remedy and a convincing politics, one must begin by altering the conception of the problem and hence the terms of debate. Through most of the 1980s, the defined problem was the federal deficit. The defined remedy was “belt-tightening.” The politics were dreadful; potential Democratic voters already reeling from reduced living standards were offered further sacrifices. Today if the defined problem is recession, the orthodox remedy is “growth measures.” The politics, at least, are rather better. The economy weakened on the Republicans’ watch, and liberal growth measures (tax relief for the middle class) are more attractive than conservative ones (more supply-side relief for the rich). But the politics are not quite dispositive, nor are these remedies likely to do the job.

As I have written elsewhere, the “declining middle” is the result of multiple factors.<sup>1</sup> These include the globalization of commerce, the weakening of organized labor, the petering out of the postwar boom,

1. “The Declining Middle,” *The Atlantic*, July 1983.

and the shift to a service economy whose earning structure is more bifurcated than that of an industrial economy. These forces were compounded by the regressive tax and transfer policies of the Reagan administration, which withdrew transfer income from the poor, and shifted the tax burden from the rich to the middle class. The trend was exacerbated by the go-go economy of the 1980s, which led to a more entrepreneurial distribution of income and wealth, with super-star earnings for a few and vulnerability for most wage and salary earners. The income of the middle class was further compromised by the slower growth of the Reagan years, which halted altogether under Bush. A politically convincing program needs to quickly propel the economy out of its current slump, and also begin the task of repairing the structural damage. We need to shift back to a high growth path, but in a manner that restores the prospect of a broadly middle-class society.

### *I. Macro Paralysis*

Blasting out of the present slow growth trap will first require a much bolder sense of the possible. Looking back on the 1980s, the fiscal legacy of Reaganism produced a bizarre political role reversal. On the right, Republicans—usually the party of fiscal prudence—found in supply-side theory a safely conservative rationale for large deficits. In a weird alchemy, they took credit for the temporary spurt of growth, blamed the deficits on Democratic congressional spending, yet pooh-poohed those who found the deficits troubling. Meanwhile, in the orthodox center, economists who called themselves “neo-Keynesian” became alarmed at the deficits and unlikely crusaders for austerity. Brookings-style Democrats, thinking fiscal probity necessary economics and sound politics, turned the party of Roosevelt into the party of the green eyeshade.

It is worth pausing a moment to consider the macroeconomic assumptions behind the calls for austerity. In standard economic

theory, savings equals investment. All investment has to be financed by something, and all savings has to go somewhere; therefore, looked at after the fact the supply of investment precisely equals the supply of savings. From this accounting identity, centrist economics constructs the following chain of logic: The United States needs more investment to grow more rapidly; the U.S. historic savings rate was lower than that of its faster-growing competitors; big federal deficits only lowered it further since they have soaked up about two-thirds the supply of household savings. Hence, the number one priority for the economy is smaller deficits and higher savings. In the short run, this will be contractionary, but it is necessary medicine for the morning after a decade of excess. This is a consensus that goes roughly from Lawrence Summers, Benjamin Friedman, and Robert Lawrence in the moderate center to Martin Feldstein and Peter G. Peterson on the conventional right.

Put aside for a moment the political stupidity of telling people who have spent a decade coping with declining living standards that what they need is more belt-tightening. The macroeconomics is also wrong, for it falsely assumes that savings is what drives investment. It was Keynes, seconded by Michal Kalecki, who pointed out that when an economy is stuck performing well below its potential, higher savings does not necessarily stimulate higher investment. Entrepreneurs invest when they think customers will buy products, not when the economy is flat. The vulgar understanding of “Keynesianism” is that it simply equals stimulation of aggregate demand via deficit spending. But what passes for Keynesianism has filtered through the exegeses of Keynes’s more conservative American disciples. Keynes himself realized that what drove economic growth was indeed investment, but not necessarily via private savings. This was the famous “paradox of thrift.” Keynes wanted the most possible investment at the lowest possible interest rate. He also

wanted to keep the economy running at full employment and high growth. But under some circumstances the pump-priming needed to occur on the investment side first.

What Keynes grasped, and what his neo-Keynesian heirs have forgotten, is that in a stagnant economy more private savings does not always generate more private investment. This is particularly true in a situation like the present one, in which the institutions that extend credit are suffering from serious recent structural traumas. Bank capital has been depleted by the losses of the 1980s. Banks are justifiably reluctant to incur risks. As the economist Irving Fisher wrote in his classic 1933 article, "The Debt-Deflation Theory of Great Depressions,"<sup>2</sup> a depression is different from a mild, self-correcting recession, in that a depression involves a collapse of asset values, typically after a bout of speculation. When debt exceeds the value or earning capacity of its collateral, debtors suffer serious inroads on their net worth and income, creditors suffer erosion of their wealth and their capacity or willingness to lend, and there is no great demand to borrow.

### *The Investment Cure*

In this setting, the quickest way to stimulate investment is simply to increase it directly via the public sector. A dollar saved by a private entrepreneur may or may not turn up as a dollar of investment—indeed, in a depressed economy, that conversion is unlikely. But a dollar spent by the government on a road, water treatment plant, high speed rail facility, or optical fibre network, is actually one hundred cents worth of real investment. This brings up a related accounting fallacy—the arbitrary assumption in the National Income and Product Accounts that government spending is "consumption." Identical investments are scored differently in the national income accounts, depending on which sector undertakes them. A public power plant is as much an investment as a private one. A

public subway line is as much an investment as a private light rail project. Investment is investment is investment. In fact, the fraction of government spending that represents investment—particularly non-military investment—has deteriorated markedly during the Reagan-Bush era, and this is part of the story of declining investment generally.

As Robert Heilbroner observed in *The Nature and Logic of Capitalism*, in free-market ideology all private-sector activity gets an implicit pardon; it is presumed innocent—it must be efficient; else the market would not have undertaken it. Conversely, public outlay is assumed to be a drag on productive investment; it may have necessary social purposes, but it is the object of economic disdain. It is presumed inefficient because the government by definition cannot outguess the market. But after the real estate debacle of the 1980s, in which the genius of the private market sank hundreds of billions of dollars into economically worthless commercial buildings, only a fool would continue to insist that the market by definition guesses right.

**T**he immediate recovery program, therefore, needs to be a World War II-style cure: an investment-led recovery involving outlay that is initially public but that stimulates private activity as well. A public investment-led recovery has four distinct benefits. Virtually all the outlay actually is invested, unlike the fruits of a supply-side tax cut. Virtually all of the outlay stimulates domestic activity, while a consumption-led boom partly leaks out into purchase of imports. Public investment of the traditional sort—roads, bridges, sewers, water-treatment plants, subways—would make up for the accumulated short-changing of infrastructure maintenance during the 1980s and increase productivity, while high-tech public investment in projects like fiber-optic phone lines and high-speed rail would increase the technology-intensity of the economy and accelerate technical learning, productivity,

2. *Econometrica* 1 (1933).



and competitiveness. Obviously, the investment would be initiated by government, but most of it would end up contributing to private-sector jobs and much of it would wind up as private capital goods.

The belated recovery from the Great Depression stimulated by the burst of public investment during World War II was astonishing. Unemployment melted from 11.8 per cent to under 2 percent in less than a year. Real income rose by more than 40 percent during the war. The wartime investment also produced a generation of physical and human capital, which in turn powered the postwar boom.

An investment-led recovery program would have to be financed partly through special taxes and partly via borrowing. World War II relied on both war bonds (borrowing) and surtaxes. A public investment program, on the order of \$150 billion annually, could raise \$50 billion from either surtaxes on very high incomes or from selected consumption taxes on, say, energy where there are good independent policy reasons to raise the cost of usage. A second \$50 billion could come from an accelerated peace dividend. This makes good sense because throughout the Cold War military spending has been the unacknowledged instrument of our technology policy, as well as a subsidy to the investment of capital goods in such industries as aircraft. As military spending is reduced, so is the unadmitted stimulus to investment—which needs to be offset.

The final \$50 billion could be borrowed. The borrowing of the 1980s was unsustainable because it primarily financed consumption. There is nothing wrong with borrowing to finance investment. It is time for a government capital budget, so we can at last differentiate which portion of public outlay is consumption—which should be financed by taxes and be deficit-neutral over the course of the business cycle—and which portion is investment. The investment portion can legitimately be financed by borrowing, in the same way that the private sector finances investment by borrowing.

At the end of World War II, the public debt peaked at 119 percent of gross national product. But that debt did not choke a recovery; on the contrary, the productive fruits of that debt nurtured the postwar consumer boom. Per-capita public debt increased nearly five fold during the war, but this increment was well worth it, for it finally ended the Great Depression. With the economy back on a high growth path, the ratio of debt to GNP diminished for 35

*In a public investment-led recovery, virtually all the outlay would be invested, unlike the fruits of a supply-side tax cut.*

years, until Ronald Reagan started it on a sterile, upward course. Today, the national debt is about 55 percent of GNP. Seemingly, there is plenty of room for additional debt. However, the current debt is more serious than it seems because real interest rates are so high. In 1946, net interest paid by the federal government was 1.9 percent of GNP. Today, that percentage is 3.4 percent of GNP, and personal and corporate debt are also at a postwar high.

### *Can We Afford More Debt?*

The Levy Forecasting Institute has projected that by the year 2000, if present trends continue, real GNP (in current dollars) will be about \$6.1 billion, while debt will rise to about \$6 billion. Therefore, debt will equal 98 per cent of GNP and the cost of servicing it will increase to an alarming 8.1 percent of GNP. The easiest way of lessening the drag of this debt burden is to lower real interest rates. During the war, notwithstanding the very high deficits, interest rates were low because the executive branch and the Federal Reserve had a stringent policy of keeping them low. Treasury securities were not auctioned; they were spoon-fed. Many ordinary Americans also bought war bonds. And inflation was

restrained not by tight money but by wage and price controls. Moreover, when there is high idle capacity as at present, the risk of very cheap money setting off inflation is far lower.

Obviously, we cannot expect the kind of wartime discipline that operated in World War II. But it is possible to keep lowering real interest rates and offset the inflationary impact by a serious incomes policy that represents a social compact between industry and labor. It is also possible to sell more bonds directly to the public. And it is possible to require very high income Americans to spend a small portion of their income on compulsory purchases of Treasury debt with a moderate real interest rate—say, inflation plus 2 percent—as an alternative to higher taxation. If real interest rates can be lowered, a \$50 billion annual increment to total debt to finance investment is easily bearable. And the relief to the larger burden of high real interest rates generally for both public and private sector would be immense. Each 1 percent drop in the interest rate saves the government \$35 billion per year.

Keynes observed that the real interest rate should be as low as possible, to make it cheaper to invest. Business has spent the supply-side era moaning about the high cost of capital, and pleading for special incentives to offset the high prevailing interest rates. But special tax breaks are the wrong solution. It is far better to lower interest rates across the board.

On the savings side of the equation, there are alternative strategies for increasing the savings rate over the long term once growth is restored to a higher path. One way is to reform the private pension fund system—a key source of increments to savings—so that corporations are not permitted to vary their actuarial assumptions and loot pension reserves whenever the stock market or the prevailing interest rate happen to be elevated. A second way is to use the Social Security surplus as an annual source of contributions to total savings, instead of consuming it to offset

the current deficit. But the most important way is to restore economic growth and the incomes of the middle class. The experiment of the 1980s confirmed Keynes's insight that savings are relatively insensitive to interest rates. Throughout the decade, real interest rates were at historic highs—but the household savings rate plummeted because people had little spare income to put aside.

For Democrats to embrace this view, they would have to break with the macroeconomic orthodoxy of recent years. They would have to remember that when times are hard, the voters do not oppose government coming to the rescue; they fairly demand it. They would have to remember that most voters do not care about the size of the federal deficit; it is an abstraction, an issue that does not really concern ordinary people—except when the indirect effect is to pick their pockets.

## *II. Competitiveness and Productivity*

Beyond the short term problem of a "debt-deflation depression"—the fallout from bad recent policies choking off recovery and high growth—the economy suffers from several interrelated structural deficiencies which render it less productive and less competitive in world markets than it might be. Many of these boil down to the famous short-term preoccupation of American investors and managers, but this economic myopia is reinforced by our institutions and can be changed by structural reforms. This is a problem independent of the slow growth, the bank-real estate trauma, and widening income disparity of recent years. Even if we can escape the macro trap, we have an institutional productivity problem. The damage done to banks will affect our global competitiveness; and if we want to reverse the long-term degradation of income distribution we will need a more competitive economy.

**Capital Markets.** One arena for reform is our capital markets, which are structured to fairly beg managers to ignore the long-

term health of the enterprise, and discipline bad management by selling out or breaking up the entire company—a remedy not unlike burning down the barn to roast the pig. At a minimum, the tax treatment of capital gains ought to be amended to induce longer-term holdings. Pension funds, which are tax exempt, ought to be punished for short-term churning of their investment portfolios, and induced to invest long. We need a residual, public source of long-term capital as well, perhaps through a portion of the Social Security surplus which might be invested in a diversified portfolio of stocks, or through a new Reconstruction Finance Corporation. As Felix Rohatyn has suggested, it would also make sense to recapitalize banks on the front end, rather than continuing to suffer cycles of slow bleed followed by costly bail-out.

Congress, at this writing, has just voted to replenish the Federal Deposit Insurance Corporation (FDIC) but is stalemated on banking reform. My own view is that we definitely need stronger banks, but that German-style “universal banks” which both underwrite stock and perform traditional commercial banking functions, and perhaps own commercial enterprises, should be limited to a handful of the strongest, best managed banks, at least for now. In the meantime, we should reinvent locally-oriented banks as economic development institutions. Savings and loan associations once served something of this function, as nonprofit institutions. Rather than moving toward one, undifferentiated money market, we should recognized the structural fact that an economy needs distinct, specialized financial institutions.

The government has to reinvent the entire banking system, wiping off a generation of bad debt, closing shaky banks, reorganizing and recapitalizing the remaining ones. This, in effect, is what the FDIC has been doing—but it is pretending that it is merely paying off depositor claims. As a result, its own focus is entirely on the balance sheet, with the effect that banks are very stingy with credit. The government should admit

what it is doing, acknowledge the larger dilemma, and pursue a program that makes business credit plentiful.

The financial economy needs to be restructured to serve the real economy, as it does in the world’s more successful societies. In the 1980s the real economy was seen as a plaything of the financial economy. Further, we need an alternative to the hostile takeover as a form of holding corporate managers accountable. There are only two possible candidates—more hands-on management by creditors and institutional investors, and more of a stakeholder role for employees. Germany, one of our most dynamic competitors, uses both approaches.

As Bennett Harrison and Maryellen Kelley wrote in the Winter 1991 *American Prospect*, it takes stakeholder relationships between worker and manager to allow workers to deliver their best productivity, and to permit managers to give their workers the necessary autonomy. “Best practice” companies already attempt this form of labor management relations, but far too many firms still attempt to compete by taking the low road of cheap wages and idiot-proof production routines. Public policy could offer a variety of inducements to encourage best practice.

**Labor Markets.** A related candidate for long-term structural reform is labor market and educational policy. There has been no shortage of expert study on this problem. By far the best report was *America’s Choice: High Skills or Low Wages!*, by the Commission on the Skills of the American Workforce, chaired by Ira Magaziner, an author, business consultant, and expert on comparative industrial policy. As honorary co-chairs, the commission had former Carter Labor Secretary Ray Marshall and former Reagan Labor Secretary William Brock—no small ideological stretch there.

The Skills Commission pointed to the wide disparity in the school-to-work transition programs of the U.S. and its leading competitors, as well as the absence of labor

market institutions that facilitate a high-productivity, high-skill, high-wage path to competitiveness. The commission recommended that all high school students attain a standardized Certificate of Basic Mastery, and that dropouts receive encouragement and aid to go back and get this basic certification. Non-college bound students would be able to work toward a variety of professional and technical credentials, which would be standardized and accepted nationwide; this would all be coordinated and administered through a new system of local labor market boards. The plan borrows heavily from German, French, and Swedish experience. As Barry Bluestone has suggested in these pages, both college and non-college postsecondary education could be financed by a loan entitlement. This would have the further virtue of financing the upgrading of the work force through loans that would be self-liquidating.

**Civilian Technology Policy.** Throughout the Cold War era, the U.S. used the Pentagon as its implicit industrial policy. Although some critics of the impact of defense spending on the economy such as Seymour Melman have viewed it as a pure drain, the military-aerospace complex allowed the government to invest trillions of dollars in research and development, production capital, and technical learning that would have otherwise been ideologically objectionable to conservative administrations. In fact, at the peak of America's postwar boom, the military was spending twice its current fraction of GNP. As the military fraction of GNP winds down and as military technology becomes more arcane, with fewer easy commercial spillovers, it is essential to recognize the implicit role as surrogate technology policy that the Pentagon has played, and to devise an explicit substitute.

If we do not wish to lose these benefits entirely, we should follow the suggestions of Senator Jeff Bingaman and others that we create explicitly civilian agencies of govern-

ment whose task is to promote the development of advanced technology with commercial uses. Bingaman, seconded by Senators Sam Nunn and Fritz Hollings, has proposed legislation creating in the Commerce Department what amounts to a civilian Defense Advance Research Projects Agency (DARPA). Bingaman's twin bills would create critical technology application centers, intended to help U.S. firms to transform new technologies into new products more quickly and more cheaply. A companion bill would upgrade the National Institute of Standards and Technology, which already exists in embryonic form but has never been fully funded because of ideological opposition from the Bush administration.

DARPA-financed research helped create, among other innovations, lasers, data packet switching, super-computers, and advanced composite materials. Conservative ideology absurdly holds that this role of public investment in technology is fine as long as it creates commercial benefits only inadvertently. Somehow, when the purpose is to create commercial benefits, the enterprise becomes suspect. By the same token, the National Institutes of Health, whose research and development spending has helped make the U.S. biotechnology industry a world leader, are tolerated ideologically on the ground that their purpose is to advance science and health; the incidental effect of creating a strong, competitive U.S. commercial industry is held to be a mere byproduct. Surely, it is time to challenge this prejudice against publicly sponsored R&D, head on. The Energy Department's National Laboratories, long a part of the nuclear weapons program, should likewise be converted to explicitly civilian uses.

A word of caution about this set of structural policies: None of them is especially sexy. Nobody is going to get elected president by crusading for a civilian DARPA or for a revised system of pension fund regulation, or even for a restructuring of labor market policy. These are reforms to be un-



dertaken, in office, by a Democratic administration that is clear about its first principles and that has the self-confidence to lead by example and look to the long-term well-being of the economy. And unlike the orthodox cold bath fiscal remedies, these policies at least have the virtue of inflicting no harm while they are doing their work.

**Trade.** I have not yet mentioned trade, which I have written about widely in *The American Prospect* and elsewhere. I believe passionately that the Bush Administration has mistakenly placed the goal of worldwide laissez-faire trade ahead of the more important goals—such as assuring fair access for American-made products overseas and insisting on roughly equal sacrifices on the part of the major trading nations to maintain a symmetrical and equitable trading system, not to mention sensible domestic policies. I suspect it is good and legitimate politics for Democrats to fault the Administration's trade policy priorities, as well as its negotiating strategy. At the same time, as Congressman Richard Gephardt found in 1988, it is difficult to prevent trade-nationalism from deteriorating into simple jingoism, especially when one is searching for thirty-second commercials and bumper stickers. The larger point is that an assertive trade policy makes the most sense when it is embedded in a larger program that reclaims the case for a mixed economy at home.

Trade policy, by itself, is a poor substitute for an industrial policy, for trade cases arise according to the vagaries of anti-dumping complaints. The government then backs into de facto industrial policies that it cannot otherwise defend and that seem to make little sense in their own terms. For example, thanks to an anti-dumping case by the Harley Davidson company, the government found itself with an industrial policy for motorcycles while it had none for semiconductors. Like it or not, government policies affect the health of key industries, deliberately or by inadvertence, and gov-

ernment therefore has no alternative to thinking coherently about which technologies matter. Conservatives contend that this process will be vulnerable to interest group pressures—but the absence of explicit goals virtually guarantees that our technology policy will be *nothing but* the lowest common denominator of interest group politics.

### *III. Defending the Middle Class*

This is, of course, the big, resonant campaign theme, and it connects to several concrete policies. As Harris Wofford said, deliciously, in the Pennsylvania Senate race, "If criminals have the right to a lawyer, working Americans have the right to a doctor." For better than a decade, the middle class that plays by the rules has been working harder and falling further behind. Astonishingly, the median household income is today what it was twenty-three years ago, when it was not conventional for mothers of school age children to be in the paid labor force. The median wage of a male nonsupervisory worker has dwindled to what it was in 1957. The very real economic resentments and fears, if validated and articulated, serve to restore the alliance between Democrats and wage earners. If not, the politics of economic resentment quickly mutates into the likes of David Duke.

As a core theme, rescuing the middle class offers multiple benefits. The vast majority of Americans are not owners of large stores of capital. Anybody who must work paycheck to paycheck, who is economically vulnerable to losing his job, is middle class almost by definition. By the same token, the virtuous poor—those who work or who genuinely want to work—also have essentially middle-class values and aspire to a middle-class standard of living. Symbolically, they are part of the middle class, too. Championing the middle class bridges over the largely phony issue of whether Democrats ought to be for the poor or for the great middle. At their best, Democrats fight poverty by defining a society in which everyone is equipped to

work and everyone who works gets to be more or less middle class. It is a politics not of redistribution but of inclusion.

Some obvious sectoral policies are suggested by the points of contact between voter frustrations and Republican failures.

*At their best, Democrats fight poverty by promoting a society where everyone is equipped to work and those who work are middle class. It is a politics not of redistribution but of inclusion.*

Health care, for one, has just about everything. It is, as they say in the academy, a heuristic. It teaches important ideological lessons and validates the perception of ordinary people that the free market is hazardous to their health. Government allegedly wrecks whatever it manages, but in truth most old people feel they get a better shake from the public and universal Medicare system than from the caprices of private health insurance.

Tax justice is a second such defining issue. Republican claims that tax reductions on the very well off were the key to stimulating growth and balancing the budget have been revealed as self-serving nonsense. When the first budget summit failed last September, Democrats found to their surprise and delight that raising taxes on the rich in order to save programs that serve the middle class was, of all things, good politics. A *Wall Street Journal* poll last October revealed that fully 76 percent of voters favored adding a new top bracket for "upper-income individuals."

However, the tax issue despite its potential is a reminder of just how fragile is the Democrats' new economic populism. No less than Senate Finance Committee Chairman Lloyd Bentsen and House Speaker

Tom Foley have made noises about compromising with President Bush's desire for capital gains cuts to get some relief to the middle class. If the vote were held now, the Bentsen-Foley position would probably prevail. Dan Rostenkowski has let it be known that he hopes his proposal does not come to a vote before next November. It is splendid as a defining issue; in the heat of legislative compromise, it could well turn to ideological mush.

The excesses of deregulation form a third cluster. While individual malefactors of both parties can be fairly blamed for the S&L mess, the rising tide of commercial bank failures can reasonably be laid at the door of Republican regulators who simply did not believe in careful supervision of banks. Some individual Democrats may have been on the take, but the ideology was purely Republican. There is now a second generation S&L crisis, the fault of Republican appointees who failed to competently manage the properties acquired by the FDIC and the Resolution Trust Corporation, which are now the largest commercial property managers in the country. By the same token, the travelling public is disgusted with the gouging and the plain unpredictability of air fares, which are the fruit of airline deregulation coupled with the collapse of antitrust enforcement. The anomalous activism of David Kessler, the new Food and Drug Commissioner, so out of character with the rest of the administration, suggests that consumer regulation is basically popular, even when Republicans do it. Environmental regulation, proof positive of the failure of markets to police themselves, remains broadly popular and Dan Quayle's attempt to gut it is a Republican liability.

A fourth set of issues involves what Stanley Greenberg has called the life cycle of the working family: namely, all of the policy defaults of the laissez-faire era that make it so difficult for wage earners to reconcile family life and work, and to create a harmonious, safe home. These include child care and parental leave policies, as well as symbolically potent programs of affiliation

with the struggling younger family, such as first-time home ownership, and secure nursing care for the infirm elderly. Much of this will cost some money. But Democrats should appreciate that taxing the rich is now good politics again (if it ever wasn't), and that bashing Democrats as the party that wants to use government to help ordinary people is no longer a curse when ordinary people are terrified that the economy is going down the drain.

In advocating for the working middle class, we should be very clear about what we can and cannot expect to accomplish, in a campaign and in office. Politically, the point of Greenberg's "middle class project" is to make clear that the Democrats are on the side of the working middle class and the Republicans are not. Under this heading logically fall taxing the rich to provide tax relief for everyone else, and universal health insurance. However, we should not delude ourselves that tax relief for the middle class, alone, is much of a recovery program. Nor should we think that over the medium term a Democratic administration could do much to reclaim the postwar rate of growth in the incomes of ordinary people without making progress on the broader issues of competitiveness and productivity. That will take years (eight preferably, beginning next November).

**T**he stakes are immensely high, and they go far beyond the prospects of the Democratic Party. As history keeps reminding us, ordinary working people are dreadfully vulnerable economically. When living standards fall and institutions of economic and social uplift, such as trade unions and responsive parties that articulate wage-earner interests, are unavailable or moribund, it is a short, slippery slope to the politics of resentment, racism, and demagoguery. The dynamics are the same in Shreveport and Silesia.

In the Louisiana gubernatorial race, some were relieved that Edwin Edwards

coasted to victory over David Duke with 61 percent the vote. I was chilled that 39 percent of Louisianans voted for a Nazi. The parallels with the 1920s are all too real. Deny ordinary people their livelihood and their dreams for long enough, and you realize just how thin the veneer of civility is. It is inconceivable that the racial high-mindedness of the early 1960s would have been possible had not America been growing at something in excess of 4 percent per year and the economic prospects of white Americans improving. If we do not rekindle the economy, we will not see that kind of generosity again, and we may see far worse.

Six months ago—which is to say, a political era ago—the experts were preparing for a coronation. George Bush, hero of the Persian Gulf War, had frightened off all of the Democratic front runners and would be re-elected with only token opposition. How wrong they were. For the first time in a very long while, the Democrats have gotten lucky. The supply-side turkey has come home to roost in an election year, and some Democratic role models have emerged in the nick of time. At the same time, the electoral mood is very volatile. Democrats remain vulnerable to tax revolts, race-bating, government bashing, and the dubious record of the Democratic Congress. As incumbents in a divided government seeking legislative accomplishment, they remain tempted to split differences with their President, thereby submerging their potential as an opposition. In a presidential primary season, with all its pressures for product differentiation and fund raising, they remain vulnerable to infighting and to some of their own candidates who occasionally sound suspiciously Republican. The 1992 election is definitely winnable, but the Democrats must break with economic orthodoxy and reclaim in the strongest possible terms their historic role as champions of economic stewardship, of broadly diffused growth, and of ordinary people. ♦

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# Confessions of an Airline Deregulator

*Mark S. Kahan*

The young lawyers and economists who came to Washington in the late 1970s with Alfred Kahn, the architect of airline deregulation, had an uncommonly heady experience. They created real change. Their blueprint enjoyed bipartisan support and its initial success exceeded their rosiest expectations.

Things look far different today. We who are still willing to defend airline deregulation are a lonely lot, at least outside the small world of government bureaucrats and professional economists who remain true believers. There may be a "silent majority" out there who appreciate their improved access to air travel. If so, they are drowned out by the deafening complaints of passengers who think service has never been worse and fares have never been higher, and from employees who have lost their jobs through mergers and bankruptcy.

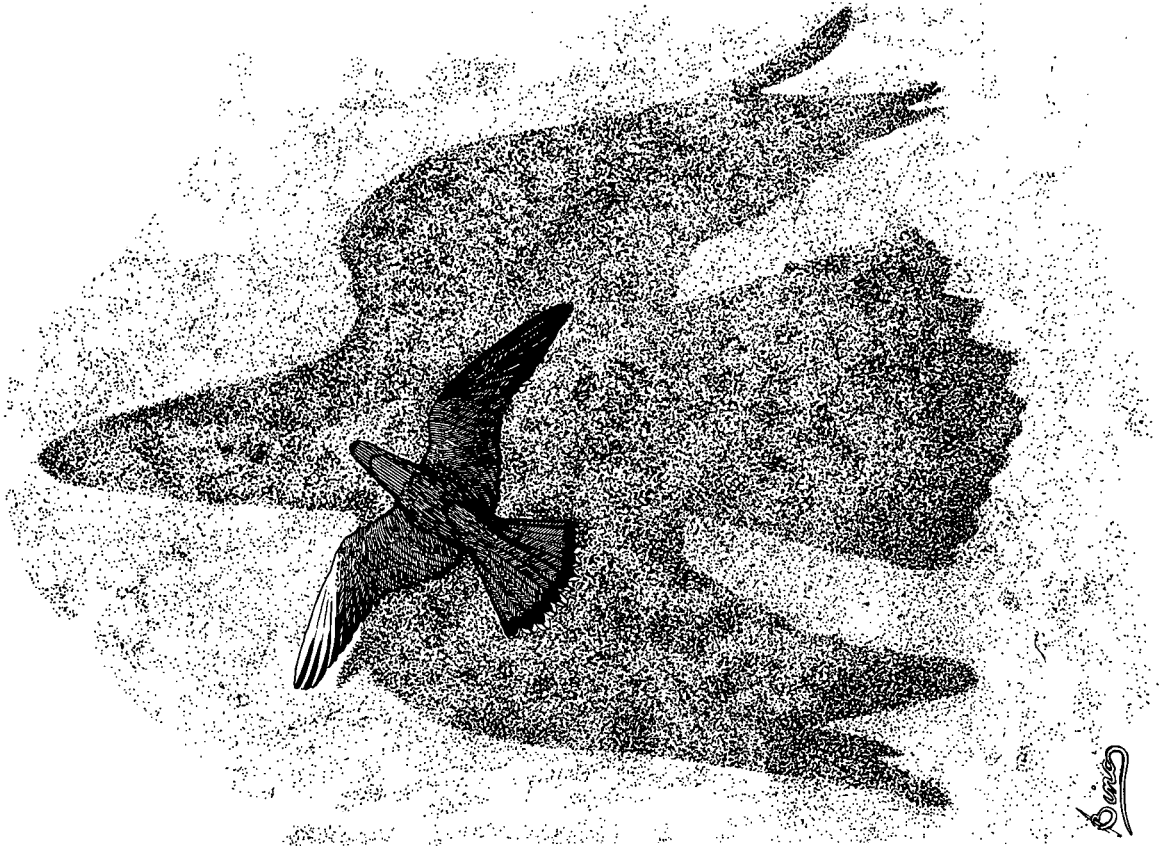
At the very least, we have to face up to the sobering realization that the robust competition unleashed back in 1978 may not endure. Long-established airlines continue to go out of business or be absorbed by a few dominant carriers. New entrant airlines, the oxygen of competition, are scarce. Deregulation advocates look around and ask whether the marketplace can work with only a handful of survivors. And if not, what do we do now?

For me, the question is not wholly academic. In 1985, I saw my airline opportunity and took it. With two partners, I sunk everything I had (and a lot I didn't have) to acquire control of a Los Angeles-based company that became an airline—not a movie or CIA creation—called Air America. Readers from the West Coast or Detroit may remember Air America's super low fares to Hawaii and Las Vegas. For others, Air America is just another forgotten airline that went bust. I recall the excitement and

hope as we entered the airline business in 1984, and later the harsh realization that even our efficient L1011 Tristars could not compete against established carriers armed with sophisticated competitive weapons.

Clearly it is time for introspection and reconsideration. Those like myself, who were so sure we were right about the opportunities for new entrants and the nature of airline markets, should have a little humility. On the other hand, there are better alternatives than acceptance of tight oligopoly and the reregulation of fares and routes—but as I will suggest they require a degree of governmental intervention aimed at preserving competition. The paradox here is that the pure *laissez-faire* approach pursued by recent administrations has turned out to be the worst enemy of effective deregulation and consumer choice.





### *Deregulation's Flight Plan*

Of the six intellectual assumptions behind airline deregulation, four have been proven completely false:

- Deregulators believed that airline size was not critical to efficient operations. The marketplace, to the contrary, has ruled that bigger is better.
- Deregulators believed that barriers to entry are low in the airline business. Experience has demonstrated that they are very high.
- Deregulators believed that increased competition would produce low unrestricted fares. In fact, it has generated a bewildering array of discriminatory prices.

- Deregulators believed that travel agencies were obsolete as well as potentially misleading channels of information and distribution. But travel agencies became more powerful than ever.

A fifth assumption, that the antitrust laws would restrain competitive abuses, has been negated by the policy default of two administrations.

Only one idea has proven correct: that bureaucrats in Washington could not figure out what airline consumers want as well as real-world airline managers. But it remains to be seen whether the bureaucrats currently in charge of competition policy—and their congressional supervisors—will provide the regulatory framework necessary to allow air travel markets to work efficiently.



*Bigger is Better*

A "natural monopoly" tends to occur in an industry where a company's average costs keep dropping the bigger it gets. Eventually, only one company can survive because any smaller competitor will have higher costs. Of course, natural monopolies, such as electric utilities, must be controlled if their prices are to be reasonable.

Deregulators believed airlines were not natural monopolies. They did not need to be big to be efficient, and there was presumably room for many airlines of varying sizes and descriptions. As economists

*Pure laissez faire has turned out to be the worst enemy of effective deregulation and consumer choice.*

say, the industry lacked substantial "economies of scale." Academic studies in the 1960s and 1970s indicated that many smaller airlines, such as regional carriers like Allegheny or Frontier, actually had lower unit costs than the "majors," such as United or American.

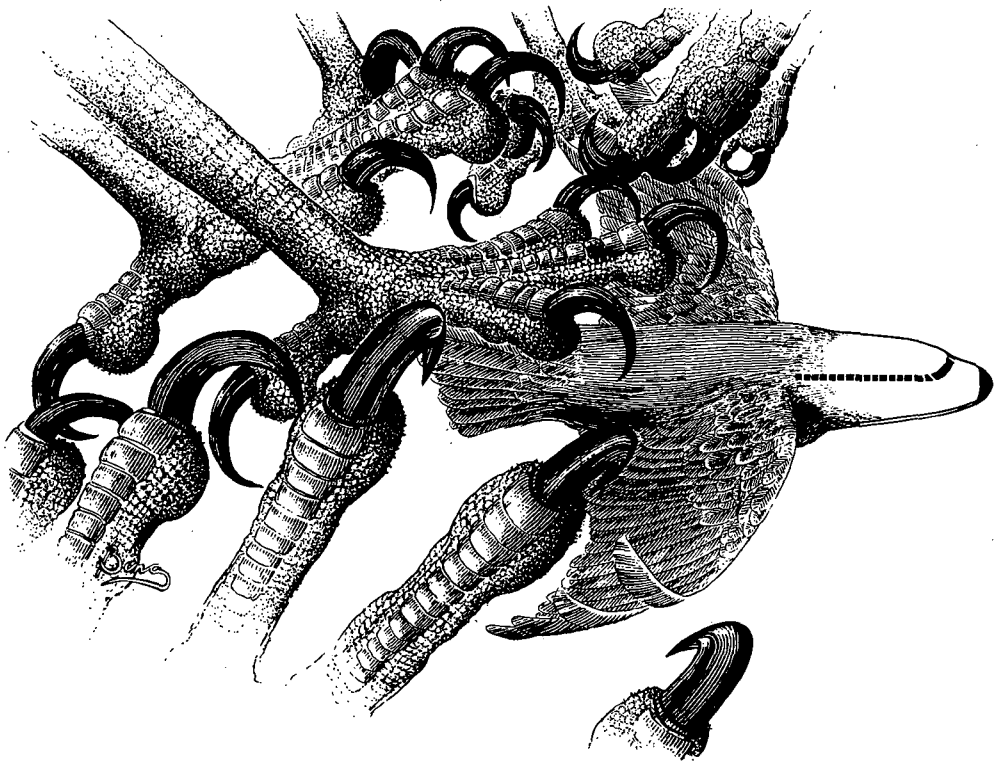
We now know that these studies were superficial. Airline size may not be decisive if the issue is who can most cheaply fly a given plane between two cities. For example, World Airways' costs of flying a DC-10 between Newark and Los Angeles were as much as 20 percent lower than those of its far bigger competitors, American and United Airlines. In classic economic theory, the low-cost producer wins. But World Airways is long gone while American and United are rapidly moving to industry dominance. Why? Because big airlines enjoy huge cost savings which flow from unique marketing advantages associated with scale. These include the market power of an integrated national hub-and-spoke system, as well as the ability to price selectively against upstart competitors.

These advantages of bigness had been largely hidden by years of inefficient route and fare regulation. During the forty-year existence of the Civil Aeronautics Board (CAB), airlines primarily operated "linear" route systems, carrying passengers directly from origin to destination, sometimes after one or more stops. The CAB conceived its job as ensuring that there were flights connecting all cities or regions that had consumer demand for service.

But in the now dominant hub-and-spoke system, airlines funnel traffic along multiple "spokes" from various cities to a central "hub," like Chicago. With connections, a carrier can serve thousands of city-pairs inexpensively, with but a few hundred daily flights. As a matter of simple arithmetic, the more spokes, the more city-pairs can be serviced, and at geometrically lower average costs. A single airline generally comes to dominate a hub simply by expanding until its effective costs are lower than everyone else's (other than competitors flying from that city to a different hub). In effect, each hub tends to become a mini-monopoly, disciplined, if at all, by spokes from other hubs.

Prior to deregulation, a few airlines did develop small-scale hubs, notably Delta at Atlanta. No one understood, however, just how powerful large hubs could be, particularly when combined with new competitive tools—or should we say anti-competitive tools?—described more fully below, such as frequent flyer programs, aggressive yield management, and computer reservations systems. Furthermore, carriers require more than one hub to be effective competitors, if only because business travellers favor airlines with the broadest geographical coverage and also like to accumulate frequent flyer premiums.

So bigger evidently is better in the airline industry, and all healthy airlines are trying to expand to take advantage of economies of scale. In conventional economic theory, this expansion should lay to rest concerns that oligopolists will restrict output or increase prices. But trou-



bling questions remain. Are there so many advantages to bigness that, five years from now, the industry will be a series of shared monopolies? Can this industry earn reasonable profits and remain competitive at the same time?

### *Breaking in is Hard to Do*

Deregulation theorists recognized that even on busy routes only a few airlines could compete head to head. Competitive success requires a marketing identity built on frequent service. Travelers typically look first to the airline with the most daily flights. Even dense routes like Boston-Washington or New York-Los Angeles have only enough passenger demand to support three or four nonstop carriers. Many less dense routes have enough demand to support only a single carrier, or at most two.

With few direct competitors, how could monopolistic behavior be thwarted? The answer was found in the "theory of contestability"—one of the biggest analytic failures of deregulation. Its allure derived from the

perception that an airplane is the most mobile of all business assets. The theory assumed that if Airline X saw that Airline Y was charging exorbitant prices or providing inferior service on a route, it could easily and cheaply enter the market simply by redeploying aircraft. This was particularly true, according to the theory, because Airline X could just as easily exit the market if it was not successful. Thus, Airline Y, if rational, would not raise prices or lower service to monopoly levels lest it lure Airline X into its market.

Unfortunately for the theory, the plane also has to take off and land. At this country's most popular and most profitable airports, landing rights (sometimes called "slots") have been fully apportioned, free of charge, to established carriers. Under FAA's Buy-Sell Rule, enacted in 1985, these airlines are free to sell these slot gifts to each other, or to a new carrier. In order to deter competition, carriers that have slots often bank them. Under current FAA rules, an incumbent carrier need not use its slots

more than 55 percent of the time; the FAA has proposed to increase this to 90 percent. It now costs as much as \$5 million and up to buy a well-timed takeoff and departure slot at Chicago's O'Hare. Since even minimally competitive service requires several daily round-trips per city market each day, the costs quickly add up to "real money"—which a new entrant must borrow while its bigger competitors use free slots.

It gets worse. Even if you can take off and land, you have to get passengers from the plane to and from the terminal. This requires jetways and airport "gates." Airport gates are frequently locked up by competing airlines in long-term leases. In some cases, "majority-in-interest" clauses give incumbent airlines veto power over new airport construction, and they can exercise their rights to thwart competitors' expansion plans. The lock-in of both slots and gates are artifacts not of the free market, but of bad regulatory policy.

It is, of course, possible to expand airport and airway capacity. The CAB issued several studies and sounded many unsuccessful alarms in 1978-1981. In the years since, the cost of implementing the National Airspace Plan (NAP) has increased, according to the General Accounting Office, from \$14 billion in 1983 to \$34 billion. In late 1990, Transportation Secretary Samuel Skinner pushed through Congress legislation intended to finance airport expansion by imposing surcharges on passengers. However, this initiative comes too late to affect the industry's competitive structure. The beneficiaries of new airport facilities will be the few airlines that survive.

Moreover, it turned out that an airline's most important asset is not its airplanes. As Michael Levine, dean of the Yale School of Organization Management, has shown in a seminal article in the Spring 1987 issue of the *Yale Journal of Regulation*, the key asset is the ability to dispense and manage information. If prospective passengers don't know the plane is there, they won't fly on it. Information about airline schedules and prices is dispensed primarily through sophisticated

computer systems marketed to travel agents—and both the computer systems and the travel agents are effectively manipulated by the big, established carriers. Easy entry by new competitors is a mirage. To be sure, any actual or potential competition is better than none, but the theory of contestability was misleading and wishful.

### *Un-Fare Competition*

Deregulation strategists assumed that increased competition would bring unrestricted low fares to the general public. In economic theory, price discrimination occurs when different customers are charged a different percentage of the seller's cost of service. Though hardly rare in the economy, price discrimination has historically been viewed as a classic exercise of monopoly power, and pertinent regulatory statutes outlaw "unreasonable" or "undue" price discrimination. Classical economics does recognize some situations where price discrimination is beneficial, but none was thought to apply to airlines.

For several years after deregulation, through at least 1982, many airlines, particularly new entrants, attempted to compete using unrestricted low fares. Most of us still remember the \$99 fare war that erupted after World Airways tried to enter the New York-Los Angeles/Oakland market in 1979. These and many other new low fares, both restricted and unrestricted ones, fueled the initial euphoria of deregulation.

Initially, the two-tier SuperSaver discount structure offered one price for so-called nondiscretionary travelers, primarily businessmen, who booked at the last minute, and a lower one for vacationers with flexibility and desire to stay awhile. But this is not necessarily price discrimination. Business travelers demand high-frequency service and plenty of seats available for reservation at the last moment, which is expensive to provide. Discretionary travelers, on the other hand, can be accommodated on just a few flights each day using a widebody, which has lower per-seat costs, or can be steered to fill up empty seats

in flights that service primarily business travelers. When airlines impose advance purchase restrictions, their ability to exploit economies of scale through this steering process is enhanced. Minimum stay requirements (such as the familiar Saturday night routine) seem, on the other hand, to be nothing other than market segmentation devices. They do nothing to lower costs or promote consumer welfare and are wholly discriminatory.

The surprise was that unrestricted low fares disappeared altogether and that the fare differentials became so large and complex. An airline's lowest general discount fare, usually involving a Saturday night stay and at least a week's advance purchase, is around 25-35 percent of its regular coach fare. While deregulators expected that price discrimination would decrease over time, these differentials exceed any plausible cost differences. Airlines have, moreover, developed vast computer facilities tracking each seat on every flight, for months into the future, to determine whether the effective selling price should be raised or lowered. Prices constantly fluctuate between the lowest discount fare and the regular coach ("Y") fare, as predictions of demand change. These so-called "yield management" systems are designed to maximize airline revenues by ensuring that the carrier collects the highest possible fare from each passenger.

Yield management is also used with devastating impact to undercut low-fare carriers through selective price cutting, a practice whose mere threat has grown sufficient to deter the would-be low-fare carrier. Large incumbent carriers meet (or even beat) the new entrant's low fare on just enough seats and flights to deny the new entrant a foothold. Faced with the same price from "old reliable" and a new carrier, passengers will generally opt for the established airline. With computerized yield management, the incumbent can keep its losses from reduced fares tolerably low and avoid losing enough passengers to permit the new carrier to become viable. Par-

ticularly when coupled with short-term increases in capacity, such selective price cutting is fairly labelled predatory.

This is not to say that yield management is always wrong. There is an argument that "charging what the traffic will bear" may actually be economically efficient. By extracting every penny from customers able to pay higher prices, airlines arguably are better able to offer the lowest possible prices to those who can pay the least. The result may be that more people fly, planes operate nearer capacity, and the system operates more efficiently.

In its most developed form, this type of pricing is called by economists "perfect discrimination." But this "perfection" may be nothing more than the latest, albeit subtle, version of that typical American industrial malady, planning only for the short term. There is a large difference between the short and long-term elasticities of demand for airline travel. Extracting every available penny from consumers in the short term means long-term shrinkage of the market. In the age of the fax, it is getting progressively harder even for Washington lawyers to justify \$310 for a one-way ticket to Detroit, just 450 miles away. Thus, however elegant yield management may be from the standpoint of static allocative efficiency, it is likely to be self-defeating over time.

The most discriminatory innovation of the deregulation era was the frequent flyer program ("FFP"). FFPs are the proverbial free lunch. The employee who generally benefits does not pay, and the company that generally pays does not benefit. Taxation of these credits as income is a political nightmare, even though the express language of the Internal Revenue Code should require it. From an airline marketing standpoint, however, FFPs are brilliant. By promoting brand loyalty in an industry whose customers used to believe that all firms produce essentially the same product, FFPs discourage the shopping-around that is necessary to stimulate price competition.



Frequent flyer programs also serve as another serious barrier to entry. A new airline cannot compete with the worldwide coverage offered in the frequent flyer programs of the major carriers, so customers attracted by FFPs are more likely to stick with the majors. Moreover, fares are significantly higher than they would otherwise be, because the price of a ticket must cover not only the costs of the traveler's seat, but also the cost of giving him a free trip in the future. As usual, the free lunch has a catch. In sum, the deregulators' idea that fares would become simplified and that unrestricted low fares would become widely available to the entire population proved incorrect.

### *Agents of Influence*

Travel agencies were regarded in 1978 as dinosaurs—obsolete and inefficient middlemen who would be tossed aside when airlines were free to use modern mass marketing to reach the public directly. This assumption was soon proved wrong. Deregulation removed the antitrust immunity that had permitted airlines to structure the travel agency system as their sole outside avenue of airline ticket distribution. A few upstart airlines did attempt to circumvent the travel agency system and its traditional 8-percent commission costs, by using methods such as Ticketron (World Airways) or by requiring direct airline ticketing (People Express in its initial stages). But these approaches failed so quickly that no one even tried to develop alternatives.

Bewildered by new and more complex fares, consumers became more dependent than ever on travel agents. Airlines, seeing that travel agencies would remain a key part of ticket distribution, chose to cultivate rather than alienate agents, who now issue over 90 percent of U.S. airline tickets.

The real mischief, however, is not in the survival of travel agents, but in the way airlines compensate them. Hidden bonus commissions, called "overrides," create incentives for agents to steer bookings not to the airline with the cheapest fare but to the

one with the biggest commission. Sophisticated travel agencies even use computer software to do the steering. This has both increased ticket prices and retarded the ability of new entrants to compete. New airlines that wish to compete using low fares must, all things being equal, find a way to convince travel agents to accept the reduced commissions those fares generate. Because most business travelers do not pay for their tickets and, to the contrary, receive frequent flyer benefits from their favorite airline, this is a tough sell.

### *The Antitrust Paradox*

No one believed that the airline industry would be without serious competitive problems just because it was deregulated. It was understood that deregulation was a new experience, a veritable laboratory where the unexpected would be commonplace. For this reason, deregulators stressed that antitrust standards generally applicable to unregulated industries would have to be enforced vigorously.

This intention fell victim to a mixture of ideology and bureaucratic lassitude. As everyone knows, the Reagan administration came to town skeptical of antitrust. What particularly galled the administration was that the antitrust laws could be used to attack bigness, per se, as opposed to practices that were economically inefficient. Under Elizabeth Dole, the Department of Transportation, however, went beyond a mere critical approach to antitrust issues to complete laissez faire. The results were disastrous.

In the years 1984-1988, the entire period it had jurisdiction over mergers, the Department of Transportation approved every airline merger brought before it, even over the objections of the Department of Justice. But some mergers were profoundly anticompetitive, such as the union of Northwest Airlines and Republic Airlines, which competed head-to-head at their two main hubs (Minneapolis and Detroit). True, Republic Airlines' long-term future in the airline industry may not have been bright, but it was



not a "failing airline" in the antitrust sense. Even if Republic had to merge to survive, it did not follow that Republic had to merge with its arch competitor. It did follow that Northwest Airlines would pay the highest price for Republic, because the resulting transaction would not only provide Northwest with Republic's assets but would also eliminate a competitor. This is precisely the type of transaction the antitrust laws were designed to thwart.

The best and only defense of Reagan administration airline merger policy is that it might not have mattered anyway. Perhaps the forces impelling the industry into fewer and larger carriers are so great that the industry would have become concentrated even with the best antitrust analysis and the most principled decision-

making. Unfortunately, we will never know. It is at least plausible that a tighter merger policy would have compelled a more competitive structure today.

A second gross failure of antitrust enforcement relates to airline computer reservation systems (CRS). American's SABRE and United's APOLLO achieved dominance in the early 1980s, a decade after the industry tried and failed to develop a single centralized system for travel agent bookings. CRS introduced enormous efficiencies into the marketplace, and it is widely agreed they are indispensable, given the complexity of post-deregulation fares and service patterns. These systems, however, have great potential for abuse.

In the early deregulation years, the reservation system vendors, led by SABRE and

## *The Exceptional Survivor*

**D**efenders of laissez faire invariably bring up the success of Southwest Airlines as proof that competitive entry remains open. Southwest has been among the most consistently profitable of U.S. airlines and enjoys the lowest costs in the airline industry. It is a remarkably efficient, well-managed organization (and I don't just say this because they are a client of my law firm). Virtually alone among smaller U.S. carriers, Southwest does not hesitate to enter any airline markets that fit its long-term strategy. It makes no difference who the competitors are and how deep are their pockets.

Southwest's success, however, owes much to its conservative financial strategy and some very unique factors. Southwest has a low-fare and generally nondiscriminatory pricing policy. It prefers to enter major markets only where there is unfettered, uncongested airport capacity to facilitate high-frequency service. These policies, in combination, give Southwest instant market share and tend to ward off predatory selective price cutting by the major carriers. If a larger carrier decides to price-compete with Southwest, it must be prepared to reduce fares for most or all passengers, not just on a few flights. Furthermore, Southwest chooses only relatively short-haul markets, averaging under 500 miles. Such flights are not readily susceptible to competition over hubs because passengers flying relatively short distances are unwilling to make connections. Finally, Southwest itself totally dominates at least one important airport, Dallas's close-in Love Field, from which long-haul flights are prohibited by legislation. This base gives it stability and some protection against the onslaught that has felled other new entrants. Yet, even Southwest knows that it would be suicide to enter traditional international or long-haul markets and take on big carriers on their own terms.

We need more Southwests. We won't get them without abandoning laissez faire.

M.S.K.

APOLLO, "biased" the displays of competing airline flights. The nonvendor's flights looked less attractive than the vendor's on computer screens. Sometimes, the nonvendor's competing flights would not appear until the tenth screen, even though, from the consumer's standpoint, it was superior to the vendor's flight, which appeared on the first screen. Sometimes, the nonvendor's flights would not appear at all, particularly if connections were involved. It took a very conscientious travel agent to ensure that all competing airlines' flights were fairly presented to the would-be traveler.

If the problem of "bias" was not enough, new entrants were frequently charged five or even ten times the fees imposed on established airlines when travel agents booked on them. If a new entrant wanted to offer a fare of \$59 for a competitive flight between New York and Detroit, it could do so. But when the reservation was booked in APOLLO or SABRE, the airline would likely be charged about \$3.50 for the computer service (in addition to the agent's commission). In an industry where a 5-percent gross profit margin is considered handsome, \$3.50 out of \$59 is substantial.

These and other CRS abuses eventually led to enormous protest and considerable civil litigation. Under congressional pressure, a Department of Justice study in 1982-1983 concluded that serious problems existed. The vendors' activity, if judged by rigorous antitrust standards, could have formed the basis for divesting these systems from their airline owners, thus assuring the industry's distribution systems would rest in competitively neutral hands. The Justice Department, however, decided to recommend dealing with CRS abuse via regulation, rather than to require divestiture. The CAB assented and imposed regulations in December 1984. This was a mistake.

At the time, the decision to regulate rather than litigate was deemed reasonable by most observers, including myself. In fact, the regulation did effectively eliminate the gross bias against competitor's flights.

However, other competitive problems actually got worse. The regulation that outlawed discriminatory booking fees was used by the major CRS vendors as justification to charge everyone uniformly high booking fees. This acts as a tax on airlines that do not own reservation systems and transfers a significant portion of their profit to the CRS vendors. American and United may well have made up all the profits, or even more, that they lost through the elimination of bias. The Department of Transportation, however, refused to remedy these and other abuses. Subsequently, nonvendor carriers have scrambled to buy a share of a computer reservation system. No major airline that does not own a significant stake in a CRS is today doing well. As Fred Kahn often said, better not to regulate; but if you have to regulate, regulate well. This has not occurred.

### *Birds of Prey*

The final failure of antitrust enforcement was the wishful thinking about the possibility of predation. This attitude did not go so far as that of Judge Robert Bork, who insisted in his book, *The Antitrust Paradox*, that predatory conduct was almost never profitable in the long run, and therefore regarded charges of predation as a waste of judicial time and as a shield for the inefficient. Deregulators were more influenced by the argument that, whatever the dangers of predation, they were outweighed by the costs of bad diagnoses and imprecise fixes.

We were also influenced by happenstance. The first formal complaint of price predation after passage of the Airline Deregulation Act came in a complaint by United Airlines, no less, against the hapless World Airways' \$99 transcontinental fare. Who could take such a complaint seriously? The CAB's short order dismissing the complaint was written with a view to discouraging litigation designed to thwart new, low fares, which were, after all, precisely the objective of public policy at that time.

How the worm has turned! Selective

price cutting by high-cost, established airlines has become a barrier to entry. Just as pernicious, but potentially easier to cure, are the numerous predatory tactics deliberately used by airlines to raise their rivals' costs. CRS and airport access (both gates and slots) issues are examples. For at least five years, the trend to greater industry concentration has been palpable and the need for a more activist antitrust policy has been manifest.

The final assumption of the deregulators was that the airline industry was too complex to be regulated from Washington. How could bureaucrats know better than airline executives (in touch every day with their customers) which routes airplanes should fly?

Here the deregulators were right, for even the brightest airline regulators cannot predict the most efficient means of service, or replicate marketplace pricing. The logic of hubs and spokes was not self-evident until the marketplace, once free of regulation, identified it. Indeed, United Airlines' first post-deregulation strategy was to jettison its short-haul and feeder routes, on the theory that linear long-haul routes were the most lucrative.

Despite its flaws, airline deregulation can be considered a long-term success in one key respect—not because of its impact on prices, which may be transitory, but because it has led to vastly increased service. The industry's rate of growth from 1978 to 1990 has been phenomenal. People use the system, whatever its imperfections. Few passengers in the United States are now more than a single well-timed connection away from the country's major cities. Virtually no points in the continental United States are more than two well-timed connections apart. A few nonstop markets that existed in 1977 no longer exist today, but in the more significant city-pair markets there are literally tens of flights per day between and over the hubs.

In *Winds of Change: Domestic Air Transportation Since Deregulation*, the most recent, comprehensive, and objective study

of the problem, the Transportation Research Board of the National Academy of Sciences found that the rate of growth in passenger trips nearly doubled in the twelve years between 1977 and 1989, in contrast to a slower 50 percent growth in the ten-year period from 1968 to 1977. The study also noted polls indicating that 19 percent of the population traveled by air on pleasure trips in 1977, while 25 percent did so in 1988. While much of this growth reflects the lower average air fares that deregulation has, at least until now, facilitated, it also derives from the significant rationalizing of route systems that deregulation allowed.

The problem is that we can no longer be sure that broader service and lower fares will endure. Because new entry into the airline business is extremely unlikely, the number of national competitors can only

*We can no longer be sure  
that broader service and  
lower fares will endure.*

diminish, as carriers fall by the wayside or are absorbed by bigger ones. Nor is pricing behavior likely to improve as the number of national competitors is reduced to a handful. To the contrary, every study has shown that, other things being equal, prices will be higher in single-carrier city-pair markets than in more competitive two-carrier markets, and still higher than in three-carrier markets. Only the magnitude of the price premium is debated. Within a decade, we may see only three major carriers left—American, United, and Delta. (Not coincidentally, they are the largest shareholders in the three dominant computer reservation systems). In many regional markets, there will only be one carrier and no real threat of potential entry.

The airlines' financial cataclysm in the last twelve months falls well outside the parameters of the industry's usual "boom or bust" patterns. It is totally unprece-

dented for five major airlines (Eastern, Pan Am, Midway, Continental, and America West) to be in bankruptcy and varying stages of liquidation. TWA and the Trump Shuttle are not far behind. While a few major carriers other than the Big Three could survive and remain independent, there is no great likelihood that they will.

**W**here do we go from here? The prevailing view within the administration remains resolutely laissez faire, coupled with the hope that, somehow, the survivors will be as numerous as five, six, or seven. Unfortunately, there are indications that the laissez-faire gamble is destined to fail. One recent piece of evidence is airline labor costs, where, to the chagrin of organized labor, economists have deemed deregulation quite effective. But lately, despite a soft economy, the major carriers have given their employees surprisingly generous and similar raises—a sure sign of oligopoly.

It would be tragic if the only choice were between oligopoly and reregulation of routes and fares. There is no shame in making mid-course corrections based, not on ideology, but on what we have learned about airline markets. The conceptual mistake is to assume that deregulation of routes and fares necessarily requires deregulation of everything. On the contrary, evidence suggests that a prudent competition policy is the necessary complement. Six steps, taken in combination, would enormously increase the prospects that the airline industry will remain workably competitive.

**Step One: Divest Computerized Reservation Systems.** Genuine competition requires equal access of airlines to potential customers and vice versa. While admitting there is a problem, the Department of Transportation denies the need for a comprehensive regulatory remedy. If the department is unwilling or unable to regulate reservation systems effectively, the computer systems must be divorced from airline ownership altogether.

Involuntary divestiture of CRS is subject to at least two criticisms. First, outside vendors may not have the incentive to innovate technologically as vigorously as airline owners would. Nor is there any guarantee that booking fees would be lower. But it is time for the Justice Department to do a complete analysis of the costs and benefits of divestiture. Unless the problems are found insuperable, divestiture is the best remedy.

**Step Two: Improve Infrastructure and Unlock Slots and Gates.** Important as new airports and new facilities are, the primary physical barrier to competitive entry remains the inability to get landing and arrival slots at airports in New York, Washington, and Chicago. An airline cannot be efficiently run without such slots. The buy-sell rule, which allocated the entire "slot" capacity of our most congested airports to existing airlines in the vain hope that they would be freely transferrable to competitors, has no procompetitive value. The carriers who hold these slots and who paid nothing for them generally will not sell them to new entrants at any reasonable price. The rule adds hundreds of millions of dollars to the effective net worth of the established carriers, moreover, and simply means that these airlines get richer while newer airlines get poorer.

The buy-sell rule, despite its good intentions, must be repealed. And because likely alternatives to the rule are positively painful, we must reduce the congestion that is the basis of the slots' value. The FAA must provide an efficiently priced air traffic control system that can handle the country's needs. Either way, landing slots at peak hours should carry higher prices, to reflect their true value. Those increased revenues could be spent on enlarged capacity. Failing that, the system should be privatized. The economic costs are immense when valuable traveler time, to say nothing of fuel and capital resources, are wasted waiting to take off or land. Congestion also creates artificial scarcity, which then invites the premium fares and barriers to competitive entry.

**Step Three: Eliminate Frequent Flyer Programs.** The benefits that FFPs provide are dwarfed by their discriminatory and anticompetitive consequences. There is, in any event, no basis whatsoever to permit their use as the equivalent of after-tax cash compensation. Free vacations for the upper-middle and executive classes do not seem to have any great social benefits and can fairly be seen as travel subsidized by less affluent taxpayers who must pay for their vacations out of after-tax income. No new legislation is required to assure that FFPs are taxed. The Internal Revenue Service could issue enforceable regulations on this subject tomorrow, though bipartisan congressional blessing would be highly desirable to provide political cover.

**Step Four: Reinvigorate Antitrust Policy.** Eleven years of extreme austerity have markedly reduced the federal government's ability to enforce a competition policy, even where consensus can be found. The field of airline transportation is no exception. The old CAB's cadre of antitrust lawyers and economists was deliberately dismantled, and the Department of Transportation's few competition analysts have had to shuffle from crisis to crisis. The antitrust division of the Department of Justice is, bureaucratically speaking, in better shape and morale may have recovered to some extent from the depths of the Reagan years.

Effective antitrust enforcement, however, depends not only upon adequate resources but on coherent doctrine acceptable to courts, and there is an obvious "chicken-and-egg" relation between the two. I believe that the need for coherent doctrine is the more critical. Most antitrust analysis in this industry has focused on mergers—an issue that should recede as merger candidates become scarce. As we have seen, the greatest need now is a conceptual framework for analyzing genuinely predatory behavior and its possible remedies. Antitrust policy has not addressed such behavior, though deep selec-

tive price cuts are likely to be below marginal costs (and therefore unprofitable even in the short run) if marginal costs reflect the capacity increases that frequently accompany them. On the other hand, selective price cutting that merely matches new entrant prices without flooding the market with capacity is not necessarily predatory. These distinctions go to the heart of airline competition as it has evolved over the last ten years, and need to be carefully analyzed, to form the basis for new rules.

Another priority is the conduct of carriers that dominate hubs, a subject which the Antitrust Division has had under study for some time with no discernible results. In one case in which I was personally involved (on behalf of client Air Canada), United Airlines was permitted to purchase bankrupt Eastern Airlines' gates at O'Hare. United, however, has no plans to use the gates, and it directly competes with the alternative purchaser, Air Canada, which is severely constrained by lack of gates.

If antitrust policy dealt with such situations firmly and efficiently, they might not occur in the first place. Deregulation meant that airlines should not be treated as public utilities, not that they should be uniquely exempt from competition rules.

**Step Five: Revise International Route Policy.** International air transport remains regulated, and access limited. Whenever applicable treaties require the United States to choose which one or two carriers will fly a given international route, the Transportation Department typically chooses a big established carrier. New entrants have gotten only crumbs. Moreover, big carriers are free to buy and sell routes, and these private deals are routinely rubber stamped. The Transportation Department takes the position that whichever carrier will pay most for a route is the carrier that will be able to do the most with it.

While this view reflects commendable humility on the department's part, it is misleading. Many of these route sales are taking place while the industry as a whole



is flat on its back, having lost over \$2 billion over the last twelve months. The "marketplace" has therefore only two or at most three buyers. Desperate sellers offer the routes at fire-sale prices, and the buyers receive virtually risk-free investments, for they are buying routes on which, by definition, competition is limited. In overwhelming proportion, the buyers are American, United, and Delta. If these carriers were strong and competitively dominant before the route transfers, they are virtually impregnable now.

These policies are the ingredients of government supervised cartelization, not an efficient marketplace. They reflect an almost Japanese-style collaboration between dominant industry players and a government ministry aimed at increasing market share. If this is to be transportation policy, we need to look at the full costs and benefits.

**Step Six: Liberalize Domestic Service by Foreign Airlines.** Defenders of *laissez-faire* policies frequently compare concern over concentration in the airline industry to allegedly misplaced fears in the 1960s and early 1970s about lack of competition in the U.S. automobile industry. Industry "globalization," it is said, will eventually lead to worldwide airline markets. But, of course, current policy drastically limits the entry of foreign airlines to the U.S. domestic market. The Federal Aviation Act restricts foreign owners to 24.9 percent of an airline's common stock and forbids foreigners from "controlling" U.S. airlines. The Transportation Department, after initial waffling, has relaxed these barriers somewhat, but still insists that airlines be majority owned and controlled by U.S. citizens.

The arguments in favor of this protectionism boil down to two: national security and the need to negotiate reciprocity. National security is a smoke screen. Foreigners who own U.S. airlines can easily be informed that their holdings are subject to

seizure in an emergency. Reciprocity has a more reasonable ring to it. If foreign airlines are permitted to participate in the U.S. domestic market, U.S. carriers should be permitted to operate in theirs. But we should be leading this movement to freer worldwide competition. If a world-class carrier like SAS wants to "save" a bankrupt carrier like Continental, or if Swissair wishes to fly between Chicago and Los Angeles, we should let it—with thanks.

It is a truism in Washington that genuine competition has few advocates. Each of the steps outlined above will surely be assailed by interest groups. Defenders of the status quo will point to the recent unprofitability of the airline industry as evidence that there can be no monopoly power at work—oblivious to the fact that recent losses arise not only from the triple shocks of recession, Persian Gulf instability, and high jet fuel prices, but from the detritus of once viable carriers exiting the industry precisely because they cannot compete with the dominant players.

Half-measures will not work. The underlying economies of hub-and-spoke systems are a reality. Since hub-and-spoke systems point in the direction of oligopoly, it is vital that any controllable influences toward further concentration be dealt with vigorously. The nation must either substantially reduce those barriers to entry that are subject to alleviation, or it must accept that the U.S. airline marketplace will be dominated by a very few carriers, and not necessarily very profitable ones.

If concentration of the industry continues unabated, the country will be susceptible to calls for reregulation by the middle of this decade. There is, to say the least, no assurance that regulation of fares or routes would improve the situation. But the present situation is intolerable. We need a procompetitive regulatory strategy to realize the promise of deregulation. Such is the paradox of the free market. ♦

# More Like Them?

Alan S. Blinder

"I don't know whether the Japanese system is good or not. I just don't understand it." *Bob Horner (an American baseball player who played in Japan)*

A generation ago, "made in Japan" conjured up images of shoddy but inexpensive goods. Today that phrase is synonymous with high-quality, and high-priced, automobiles and consumer electronics. This much is familiar. But Americans are less familiar with something else made in Japan: a new and unique type of economic system that, while certainly not socialist, is not quite capitalist either.

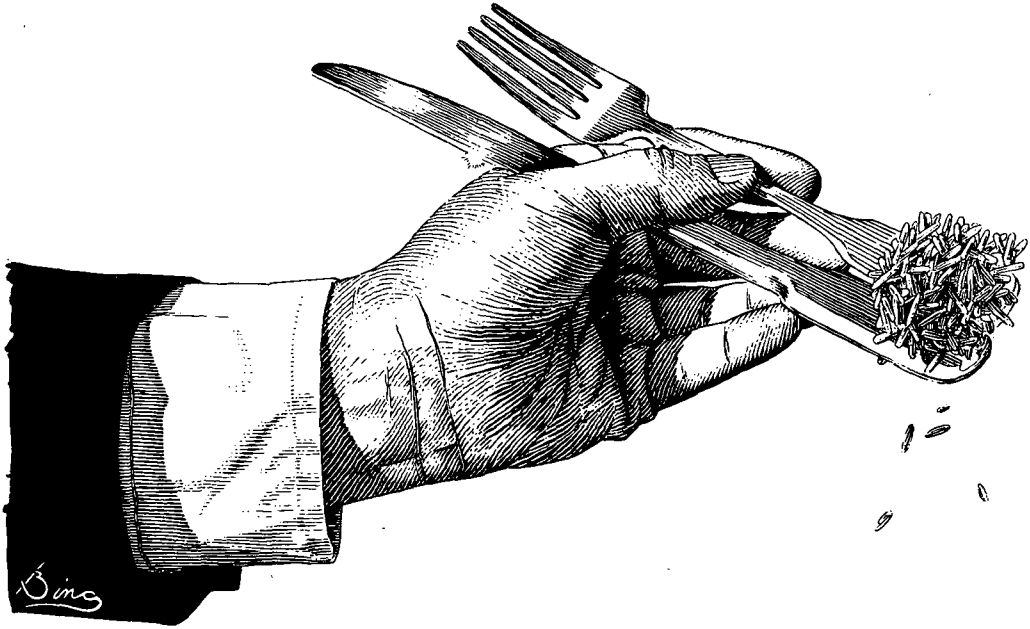
Economists have a well-developed theory of American-style capitalism but no comparable theory of the Japanese system, which has been called, among other things, "peoplism," "welfare corporatism," and "competitive communism."<sup>1</sup> Developing a theory to explain the Japanese system, however, is a challenge of more than academic interest. It especially ought to be a challenge for those interested in economic equality. Everyone is aware of Japan's miraculous record of productivity growth, but it is less well known that Japan has managed to achieve that growth while simultaneously creating one of the most equal distributions of income on earth. Have the Japanese devised a way to defeat the vaunted tradeoff between equality and efficiency? Might they even have figured out how to make greater equality *promote* efficiency? Few questions are, or should be, more important to Americans interested in developing a liberal economic agenda.

Now that the competition between centrally planned socialism and market capitalism is over, interest in Japan's alternative way of organizing a market economy should be greater than ever before. While the Soviet system remained on the screen, differences among, say, the American, German, and Japanese systems looked puny. Now they loom much larger. It seems to me that nascent market economies in Eastern Europe and the former Soviet Union ought to be considering the Japanese model more seriously than they are. But first they—and we—need to know what it is.

## *Is the Japanese System Special?*

The mere assertion that the Japanese system is something special is already controversial. According to one school of thought, Japan has a conventional, free-market capitalist system that simply does some things better than we do. For ex-

1. The terms come, respectively, from Hiroyuki Itami, *Peoplism: Beyond Capitalism—Japan's People Centered Enterprise System*, unpublished manuscript (English translation of a 1987 Japanese book); Ronald Dore, *British Factory-Japanese Factory: The Origins of Diversity in Industrial Relations* (Berkeley: University of California Press, 1973); and Douglas M. Kenrick, *The Success of Competitive Communism in Japan* (Macmillan: London, 1988).



ample, the Japanese work harder and save more than Americans, and Japan's educational system is a marvel at turning out legions of literate, disciplined industrial workers. That more and better inputs yield more and better outputs is hardly a mystery. On this view, Japanese businesses react to prices and utilize markets just as American businesses do; lifetime employment is a myth; the families of Japanese businesses known as *keiretsu* are little more than social clubs; government intervention is a mere detail, and probably harmful; and so on.

You hear this theme mainly from two groups. One is neoclassical economists, on both sides of the Pacific, who are eager to defend the universality of received doctrine. The other is Japanese government officials, who are at pains to deny that Japan is different for fear that all differences will be labelled trade barriers.

This view doubtless contains important elements of truth. But there is another, quite different, way of looking at the Japanese

system. On this alternative view, Japan's economy differs fundamentally from capitalism as we practice it in the United States.<sup>2</sup>

In Japan, long-term, cooperative relationships between firms and their employees, among companies doing business with one another, and between industry and government partly augment and partly supplant markets. Parties to such agreements, which are rarely written, may well react less to price incentives than do their American counterparts. This alternative form of capitalism appears to do almost everything wrong when viewed through the lens of Adam-Smithian economics. Workers advance by seniority until well

2. Among the works developing a theory of the Japanese system are Itami, *Peoplism*; Ryutaro Komiya, "Japanese Firms, Chinese Firms: Problems for Economic Reform in China, Part I," *Journal of the Japanese and International Economies*, March 1987, 31-61; and Masahiko Aoki, *Information, Incentives, and Bargaining in the Japanese Economy* (Cambridge University Press, 1988).

into their careers and are almost never fired for poor performance (although performance does affect their ultimate status and pay). When buying components, firms often do not seek the lowest price. The government not only tells businesses what they ought to do, but the companies frequently listen! Yet the system undeniably works.

This so-called revisionist view of the Japanese system is often associated with "Japan-bashing," but inappropriately so. Many thoughtful Japanese scholars and businessmen see their system as fundamentally different; and none of them is, to my knowledge, a Japan basher. Although I have, in the not-too-distant past, allied myself with this revisionist (but not Japan-bashing) view, I now think it may not go far enough. After immersing myself in studies of the Japanese economy and speaking with dozens of Japanese economists, businessmen, and government officials, I now believe there is good reason to question whether the Japanese system should be called "capitalist" at all.

**T**his may seem a startling notion. And, since it is mainly a semantic point, I should clarify what I mean. Certainly, the Japanese economy is based on markets and incentives and has little government ownership of capital. So, if "capitalism" just means private ownership of the means of production, there is no doubt that Japan's economy is thoroughly capitalistic. But capitalism ought to connote something more than the use of markets and the predominance of private property. It ought to connote primacy for the owners of capital, or their appointed agents, in guiding the allocation of resources. Such primacy is conspicuously absent in Japan.

In a truly capitalistic society, firms are controlled by either capitalists or executives hired to serve their interests. These managers hire labor, raw materials, and components, paying each a price set by the market. If there is something left over after paying all the bills, this surplus accrues to

the capitalists. Maximization of this surplus—*profit*—is the firm's overarching goal. Employees are instruments to be used in pursuit of this goal, just like capital, raw materials, and components. This picture is a caricature, to be sure; it leaves out the

*There is good reason to question whether the Japanese system should be called "capitalist" at all.*

company picnic and contributions to the community chest. But, to an important and perhaps increasing extent, it captures the essence of American capitalism.

When applied to Japan, however, this same stereotype becomes a gross distortion of reality. Indeed, a number of Japanese scholars have argued for what amounts to a diametrically opposed model in which the roles of labor and capital are neatly reversed. According to this alternative model, the managers of a large Japanese firm serve not as agents of the stockholders but as agents of the firm's core employees. (Japanese companies often have "temporary" or "part-time" workers who may work full time for many years but are still not considered permanent employees.) These managers hire the necessary capital, paying the price dictated by the market. Then, if there is anything left after paying standard wage rates, materials costs, and returns to capital, that surplus is used for the benefit of the permanent employees. That might mean plowing back the profits to promote growth, training workers extensively, providing generous fringe benefits like company housing, funding the pension plan, guaranteeing job security in bad times, or even just paying higher wages. All these are possible uses of the firm's surplus. Paying it out to shareholders is not among the leading options.

Whether this system deserves to be called capitalism is a semantic question, but it is certainly not the American way. A more

interesting issue is how the Japanese system works. Two central ingredients in the Japanese stew stand out. The first is the emasculation of the shareholder and the concomitant deemphasis of (a) profit maximization as the goal of the firm and (b) the role of the stock market (some would argue all capital markets) in resource allocation. The second element is Japan's unique system of industrial relations, particularly the way it encourages and exploits employee involvement. These two features are intimately related. Together they not only raise the question of who is sovereign within the Japanese firm but provide a provocative answer: It is the core employees, not the shareholders.

There are, of course, other hallmarks of the Japanese system, such as extensive cross-holdings of shares among firms, lifetime (or, at least, very long-term) employment, company unions, the *keiretsu* system, activist industrial targeting, and protectionism of all kinds. A short article cannot linger long on these and other features of the Japanese economy. So, with due apologies for superficiality, I deal with them only in so far as they support Japan's "peoplistic" system.

### *The Emasculated Stockholder*

There seems to be general agreement that arm's-length shareholders play essentially no role in decision making in the Japanese corporation. They are rentiers, not owners—entitled to a fair return on their capital but not to a voice in how the company is run. At first this description seems to apply just as well to the American system. After all, what say does an individual shareholder of General Motors have in management decisions? But there is a vital distinction.

The top executives of a large American corporation see themselves as agents of the stockholders, guardians of their interests. Management's role, it is often said, is to "create shareholder value," that is, to maximize the value of the common stock. Lest they forget their mission, generous stock

options provide a visible hand that makes the interests of managers and stockholders coincide. Should this powerful incentive, which may amount to millions of dollars, prove insufficient, threats of hostile takeovers and stockholder lawsuits lurk in the background. Sometimes, of course, the system runs amok, and managers feather their own nests. But these are aberrations, individual cases of incompetence or dishonesty. According to conventional economic thinking, the American system has the right incentives in place to make corporate executives serve the interests of stockholders. Indeed, recent activity in the market for corporate control has probably strengthened these incentives. This, it is thought, is as it should be.

Not so in Japan. A wise and experienced Japanese banker told me that "shareholders are almost nonexistent in the mind of the president of any large Japanese company." In the American context, that would be a fantastic statement, but it is not even controversial in Japan. When I asked the head of a large Japanese conglomerate whether stock-market movements would ever affect his business decisions, he answered in a single word: "Never!" Sony's Akio Morita calls the Japanese corporation "a social welfare organization" responsible for taking care of its employees. A top insurance executive said that "the incentive for Japanese businessmen is not money" but rather climbing the hierarchical ladder and acquiring a good reputation. Douglas Kenrick, a New Zealander who has run a business in Japan for forty years, writes that it is taken for granted that "the corporation exists for the employees and to give a service to its customers, not the shareholders." And so it goes. You hear such sentiments everywhere.

To the Japanese, *employee sovereignty* seems a more natural principle of corporate governance than *stockholder sovereignty*. After all, because of the lifetime employment system, it is the core employees who have a long-run stake in the company and make extensive, immobile investments in



it. Open-market shareholders can and do come and go at will. Why should top corporate executives, who see themselves as guardians of a dynasty, place the interests of transitory shareholders ahead of those of permanent employees?

**T**wo conspicuous features of the Japanese system contribute to the emasculation of the shareholder. The first is the extensive system of cross shareholdings through which companies own pieces of one another. This arrangement is most prominent within the so-called financial *keiretsu*, where one Mitsubishi company, for example, owns shares in many others. But it is not limited to this sphere. Toyota and Nissan own shares in, and are in turn partly owned by, their suppliers, their banks, their insurance companies, and so on. Indeed, purchasing a block of shares is a standard way to cement a business relationship in Japan.

Because of the extensive web of interlocking cross-ownership, some 75 percent of the stock of a large Japanese corporation is typically "locked up" by firms that have ongoing business relationships with the company. Since these shares rarely trade, only about 25 percent of the outstanding shares are left for arm's-length investors who care only for dividends and capital gains. Nothing remotely resembling this characterizes the U.S. stock market, where individual investors and return-oriented institutions, such as pension funds, own most of the shares. A 1988 survey of 300 large manufacturing firms in the U.S. and 300 in Japan, conducted by Japan's Ministry of International Trade and Industry (MITI), found that 79 percent of the Japanese shares were held by relationship-oriented investors, especially other companies with business relations with the firm. In the U.S., the corresponding figure was only 34 percent.

The roots of the Japanese system of cross shareholding may lie more in historical accident than purposeful design. In 1949 individual investors owned about 70 percent of the shares of Japanese corporations—

comparable to the percentage in the United States today. Then two things happened. First, the American occupation forces dissolved the prewar *zaibatsu* and prohibited holding companies. One way for Japan's emerging industrial giants to put the pieces back together was to link companies by cross-holdings. Then, when the Japanese capital market was opened up to the world in 1964, there was widespread fear that huge Western companies, particularly American ones, would gobble up smaller Japanese firms. ("Black ships" again!) Cross-holdings amounted to an effective nationalistic takeover defense.

They still play this role, even though Japanese corporations are now more frequently the gobblers than the gobbles. And the defense works against domestic as well

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*Since Japanese workers make their careers within a single firm, they have every reason to want the firm to prosper and grow.*

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as foreign takeovers. Hostile takeovers are virtually unknown in Japan, and cross-holdings are one obvious reason. It is simply impossible to use the stock market to gain control of a company 75 percent of whose shares are immobilized by cross-ownership.

Extensive cross-holdings have one other fascinating effect: Because of them, large Japanese firms are essentially unowned. The logic is simple. Suppose there are five firms—called A, B, C, D, E—and each owns 20 percent of the other, leaving only 20 percent in the hands of individual investors. Who, then, owns the remaining 80 percent of Firm A? The straightforward answer seems to be: Firms B, C, D, and E. But, of course, Firm A owns 20 percent of each of them, and thus indirectly owns 16 percent (20 percent of 80 percent) of itself. That, apparently, leaves 64 percent in the hands of the other four firms. But Firm A owns 20

percent of that, for another 12.8 percent of itself. It is easy to see where this argument leads: Apart from the 20 percent held by individual investors, Firm A essentially has no owners—and similarly for the other firms. Thus, to an amazing extent, the Japanese corporation has no owners!

The second salient feature that reduces stockholders to insignificance can be phrased this way: Japan is the first true Berle-Means economy. In their 1932 classic work, *The Modern Corporation and Private Property*, Adolph A. Berle and Gardiner C. Means wrote—disapprovingly, by the way—of the separation of corporate ownership from corporate control. Ownership is so dispersed, they argued, that no shareholder can exercise effective control over management. Therefore management is free to pursue its own goals—growth, self-aggrandizement, or whatever. As I have already indicated, few economists apply the Berle-Means thesis to the contemporary American system, except around the edges. (Is the corporate jet really in the stockholders' interest?) Stock options, takeover bids, and stockholder lawsuits all bend management (often willingly) to the will of the stockholders.

But no such control mechanisms operate in Japan, where stock options, hostile takeovers, and stockholder suits are virtually unknown. Boards of directors are not merely captives of management, as in the U.S.; they actually *are* management since Japanese companies have few outside directors. The top executives of a large Japanese corporation are basically a self-perpetuating oligarchy that names its own successors. When the system malfunctions, there are ultimate checks from the capital market, especially from the main bank. But, under normal circumstances, management has a free hand.

Thus arm's-length shareholders in Japan are essentially coupon-clippers who receive meager dividends, are not particularly welcome at stockholders' meetings, and are supposed to be placated (and for years have

been) by hefty capital gains. They are welcome to use "exit" (by selling shares) but not "voice." All in all, they are unimportant players on the Japanese business scene.

In the American system, most stockholders also have little voice; but their exit can be a stern disciplinary device. A company that, for example, consistently invests in projects earning less than the cost of capital will see its share price fall. The drop in share values will, in turn, (a) cost the managers money directly and (b) anger the shareholders who might (c) tender their shares to a raider. In Japan, neither (a) nor (c) can happen. So where is the discipline from the stock market? The apparent answer is: Nowhere.

According to conventional economic thought, this should be a weakness of the Japanese system. The stock market is supposed to capitalize long-run expected profits into current share prices. So, *in theory*, maximizing the immediate share price should be tantamount to maximizing appropriately discounted long-run profits—which is the right thing to do. But, in reality, the insulation from the stock market that characterizes the Japanese system may be a strength. Japanese executives are effectively liberated from the nexus of stock market analysts, traders, and fund managers that, according to many observers, so distract American executives. This may contribute to the legendarily long-time horizons of Japanese management.

To what conclusion does this analysis lead? John Kenneth Galbraith anticipated the answer a quarter-century ago. If management

maximizes profits, it maximizes them...for the owners. If it maximizes growth, it maximizes opportunity for ... advancement, promotion and pecuniary return for itself. That people should so pursue their own interest is not implausible.<sup>3</sup>

3. John Kenneth Galbraith, "A Review of a Review," *The Public Interest* (Fall 1967) 113.

My claim is that institutional features of the Japanese system, and perhaps also certain cultural attributes, lead large Japanese firms to pursue goals other than profit maximization.<sup>4</sup> In particular, an understanding of the Japanese labor market gives good reason to believe that large Japanese companies maximize the long-run well-being of their core employees.

### *The Demise of "Us Versus Them"*

The replacement of profit maximization by employee benefit maximization as the primary goal of the Japanese company already takes us some way toward understanding why labor-management relations are so congenial, cooperative, and productive in Japan. In an important sense, Japanese managers are agents of the workers; so there is only "us" and no "them." Thus Morita speaks of the Japanese corporation as "a family system" in which ordinary workers and executives share the same fate. According to many Japanese observers, this is the secret to their extraordinary industrial dynamism.

Doubtless, Japan's strong work ethic, ethnic homogeneity, and conformist tendencies all contribute to its remarkably consensual labor relations.<sup>5</sup> But it would be a mistake to attribute everything to culture, for it was not always this way. Prewar and immediate postwar Japanese labor relations were often tumultuous. Workers could be fired at will. Labor strife was rampant in the early 1950s, as Japanese unions flexed their muscles and were beaten down (sometimes literally) by management.

Partly in reaction to this turmoil, Japanese business and government founded the Japan Productivity Center (JPC) in 1955. As part of its productivity

enhancement campaign, the JPC enunciated three "guiding principles" designed to enlist the support of organized labor. The JPC's three principles—job security, fair sharing of the gains from productivity growth, and joint consultation between labor and management—have become the norm in Japanese industrial relations.

The principle of job security—more specifically, the idea that the adoption of new technology should not cost anyone his job—is exemplified by the famous lifetime employment system. That phrase really means (almost) total job security for the firm's core employees until age sixty or so, followed by "retirement" into another (often inferior) job. Japanese workers have no reason to fear technological progress. On the contrary, since they make their careers within a single firm, they have every reason to want the firm to prosper and grow. After all, the faster the firm grows, the more workers can be promoted into higher and better positions.

Because core employees rarely quit and are almost never fired, both the worker and his (it is rarely her) firm have incentives to make long-term investments in the employment relation. Although good data are lacking, Japanese firms are widely believed to spend a much larger fraction of payroll on worker training than do American firms. As an executive of a giant manufacturing firm told me, "We manufacture the person before we manufacture the product."

Such investments are not limited to formal training programs. Extensive personal relationships—networking of all sorts—characterize the Japanese firm. To be sure, an enormous amount of time and energy (not to mention consumption of alcoholic beverages) goes into cementing these relationships; and some of this effort is no doubt excessive. But the result is a degree of cohesion that can be found in few American corporations. American workers often think of labor as "us" and management as "them." When Japanese workers think "us

4. I develop this argument in more detail and draw out some of its implications in "Profit Maximization and International Competition," in Richard O'Brien (ed.), *Finance and the International Economy: 5—The AMEX Bank Review Prize Essays* (Oxford University Press, 1991), 40-53

5. See James Fallows, *More Like Us* (Boston: Houghton-Mifflin, 1989), to which I owe the title.

versus them," "them" is more likely to be competitors than management.

Regular job rotation is a typical part of the lifetime employment system. With a few exceptions, such as scientists, Japanese white-collar and, to a lesser extent, blue-collar workers are generalists rather than specialists. Yoshio is more likely to identify

*"We manufacture the person before we manufacture the product."*

himself as a "Sumitomo man" than as a "personnel officer" or "purchasing agent." This system has both pros and cons. On the plus side, it gives workers a comprehensive rather than parochial view of the firm and a natural immunity to tunnel vision. On the negative side, a constant parade of amateurs trots through most executive positions.

But one other important benefit flows from job rotation—one that both supports and is supported by lifetime employment. Because Japanese workers are trained to perform a variety of tasks, the Japanese firm enjoys a work force that is amazingly flexible. Workers can be moved easily from one job to another as market conditions dictate. The rigid job titles that often hamstring American blue-collar (and, to a lesser extent, white-collar) employment are mostly absent in Japan. No one calls an electrician to change a light bulb. It is obvious that this kind of flexibility makes it easier for a firm to promise job security. And long job tenure, in turn, allows the firm to recoup the costs of its investments in cross-training.

Do these long-term investments in people with almost total job security pay off? The Japanese certainly think so.

Feelings of solidarity between workers and executives are bolstered by compensation structures that are starkly egalitarian by American standards. Under the Japanese seniority-wage system, wage dif-

ferentials by age or length of service (which normally correspond) are far larger than in the United States or Europe. But wage differentials for other reasons—like skill or rank—are far smaller. In particular, Japanese executives earn a fraction of what American executives are paid; and the financial incentives that produce multi-million-dollar compensation packages in the U.S. are unheard of in Japan. With no prompting from me, several Japanese business leaders branded the compensation of some American executives "obscene." They believe such wage disparities undermine morale and hurt productivity.

I do not wish to be misconstrued as claiming that all returns are shared equally in the Japanese corporation, which is therefore a worker's paradise. Certainly not. First, "temporary" or "part-time" workers (both are euphemisms) enjoy fewer benefits and less job security than core employees. Second, large Japanese businesses are most certainly hierarchical, with higher salaries, more prestige, more generous fringe benefits, and deeper bows accruing to those at higher ranks. But, bowing aside, these differentials appear to be smaller, both quantitatively and qualitatively, than in American corporations. True, Japanese executives enjoy expensive Tokyo apartments at company expense; but ordinary workers also get rent-free (or nearly so) accommodations in company dormitories and apartments. And it is hard to imagine Japanese executives giving themselves big raises while simultaneously cutting the wages of ordinary workers or laying them off.

The last part of the Japanese employment package is the joint consultation system. Originally, the idea was that management should consult labor on issues raised by the introduction of new technology, which in 1955 appeared likely to be highly disruptive. Nowadays, joint consultation spills over these bounds. Regular meetings between managers and representatives of labor dis-

cuss organization of the shop floor, production and sales plans, and even major management policies. Management routinely shares information with labor that would be considered proprietary in American companies.

This system gives workers a way to let off steam and is therefore good for morale. But it is much more than that. In conjunction with related institutions like team work and quality circles, joint consultation provides a powerful conduit of information from the factory floor to the executive suite. It enables Japanese firms to exploit the unique, detailed knowledge of the production process that only front-line workers can have. And information does flow—in abundance. The JPC estimates that 85 percent of all workers in major Japanese manufacturing firms take part in a quality circle and that the average number of suggestions per worker per year is twenty-two!<sup>6</sup> With that many ideas, at least a few must be good ones. Many Japanese economists believe that the highly participatory Japanese workplace, with its extensive involvement of workers encouraged to use their brains, is what enables Japanese manufacturers to practice *kaizen*, or continuous improvement of their production processes.

Labor unions contribute to the participatory system. Japanese unions are generally organized along company lines and are often viewed as docile. In some respects they are; for example, many would never call a strike. But most observers note that unions vigorously defend workers' rights, clamor for higher wages and fringe benefits, and so on. A key difference seems to be that the union views itself as part of the company—once again, it is not “us versus them.” In fact, union officers may be managers serving a regular job rotation in the union. And most executives of large Japanese companies began their careers as union members. A Japanese union seeks

not to weaken or destroy the company but to help it grow.

Not everything is rosy in the Japanese employment system, however. For example:

- A company unwilling to fire even gross incompetents is likely to get stuck with a few. In Japan, such people are given “window-side jobs,” that is, positions with nice offices but no responsibility. The idea, apparently, is for them to stare out the window and not impair the smooth functioning of the rest of the organization. Carrying such people on the payroll is costly, of course. But it does cement the loyalty of the others.
- Just as some companies get stuck with incompetents, others find themselves blessed with more top-quality people than they can promote. This may be no problem for the company, but it is a problem for the society. If Mitsui, say, has more promising young bank executives than it can promote, the Japanese system keeps them bottled up. It does not permit them to move to where their talents might be useful.
- A lifetime employment system can work only if labor immobility is reciprocal. A firm cannot afford extensive investments in employees who frequently quit to take their training elsewhere. And, indeed, mid-career moves from one major Japanese corporation to another are rare. I was told, for example, that no Mitsubishi company would ever hire a Sumitomo man—an anecdote indicative of the Japanese gentlemen's agreement not to raid other firms for talent. This means, of course, that individuals get trapped in the company that first hires them; if they are unhappy, they simply have to endure.
- This system is beginning to fray

6. Joji Arai, “Productivity Experience in Japan,” *International Productivity Journal* (Spring 1990), 63.



around the edges under two types of pressure. Young Japanese find it repressive and want more freedom to change jobs. And foreign firms have brought the nefarious practice of "head hunting" to Japan. But these are minor exceptions to the Japanese adage that one businessman translated for me as "serving two lords is not good."

- Many people believe that the Japanese system works much better with blue-collar workers in factories than with white-collar workers in offices. This is consistent with Japan's vastly superior relative productivity performance in manufacturing versus services. If true, it does not bode well for the future, when the share of manufacturing in Japan's economy will surely be smaller than at present.
- The incredible devotion to company that characterizes Japanese society undermines the Japanese family. The story of the "salaryman" who works from 9 a.m. to 9 p.m., goes out drinking with his fellow workers, and then commutes home for two hours, arriving just in time to collapse into bed for a few hours sleep before boarding the next morning's train back to Tokyo, is not a myth. And it does little good for Japanese family life.
- And, of course, women are excluded from the system to an extent that most Americans would find both amazing and appalling.

### *Competition in Japan*

The preceding discussion raises three key questions. First, if Japanese firms are really run by and for their employees, how have they managed to avoid the problem of "decapitalization" that ruined worker management in places like Yugoslavia? Second, if employees really control their firms, what motivates Japanese workers to

work so hard, so long, and so well? Third, if the stock market does not discipline Japanese executives, what does?

**Decapitalization.** In a labor-managed firm, short-sighted employees have an incentive to run down or even expropriate the firm's capital for their personal use rather than leave it to their successors. The worry is that they will adopt clever "end game" strategies, like failing to maintain equipment and borrowing to pay higher wages, that eat away at the firm's capital. Such problems are conspicuously absent in Japan. Why?

Part of the reason may be cultural. The Japanese are widely thought to be more future-oriented and "naturally" loyal to their companies than are other national groups. Just as preserving the family name (rather than the blood line) has been important throughout Japanese history, preserving the company name is important to contemporary Japanese workers and managers. They are plainly disinclined to play end games.

But significant economic incentives also deter decapitalization. One is that not only firms, but also workers, make heavy investments in *firm-specific* human capital—that is, knowledge and other intangible assets tied up with their particular company. If the firm falters, much of this capital will be lost. A second factor is the company pension, which will be a major source of post-retirement income to core employees. Firms with brighter futures offer more secure and generous pensions. Finally, almost all employees of major corporations retire from their companies well before they retire from the labor force. Since they will eventually rely on their companies to help place them in a post-retirement job, they want the company to prosper and grow.

**Work Incentives.** Why do workers with complete job security, seniority-based wages, and meager opportunities to change jobs work so hard? A small part of the answer is that the Japanese are natural-

ly industrious; to some extent, work is its own reward. Another small part is the intense peer-group pressure that permeates a conformist, workaholic society. But, once again, there are also important economic incentives.

Masahiko Aoki, perhaps the premier theorist of the Japanese system, points out that large Japanese organizations—whether in business or government—foster intense *long-run* competition among employees of the same age. Those who enter a hierarchy in the same “class” advance in lock step for some years (say, eight to fifteen), but then career paths diverge. The most able, or politically astute, move up more rapidly than the rest. Since everyone knows that career opportunities on the outside are thin, internal competition is fierce.

**Managerial Discipline.** With shareholders silenced, what keeps Japanese executives in line? I noted earlier that the main bank may step in if things spin out of control. But what disciplinary devices exist short of that extreme exigency? The answer lies in the forces of competition.

First, there is competition in the labor market. This may sound strange in a country whose leading companies refuse to raid one another for talent. But the competition for entry-level labor—coming straight out of high school and, especially, college—is intense in Japan’s labor-shortage economy. I was in Tokyo in August 1991, when the official recruiting season for April 1992 college graduates began. By the time the opening bell sounded, most of the best seniors already had jobs. This keen competition for entry-level talent forces Japanese managers to offer attractive compensation packages, good treatment, and inviting career paths—that is, to serve the interests of employees. If they do not, they will be starved for labor just as conventional capitalist firms that offer below-market returns are starved for capital.

Second, there is competition in product markets. In this regard, America’s image of

Japan’s internal market—allegedly full of cartels administered by MITI—is badly out of date. Yes, there are cartels, but many fewer than a decade or two ago. (The Japanese Fair Trade Commission’s list shows 261 cartels in 1989 compared to 491 in 1979 and 886 in 1969.) And, yes, competition is often waged on dimensions other than price, such as quality, variety, and introduction of new products. And, yes, competition is kept within bounds. As one government official concerned with competition confided in me, the firms “know when to stop.” And, yes, an unseemly amount of subtle protectionism remains.

But there is competition nonetheless and, in Japan’s most successful industries, it is fierce. In his recent book, *The Competitive Advantage of Nations*, Michael Porter emphasizes the strong correlation between the degree of *domestic* competition in a Japanese industry and that industry’s *export* success. Japan has nine automobile companies, thirty-four manufacturers of semiconductors, ten makers of VCRs, and so on. The level of service in a Japanese department store, not to mention an automobile dealership, is almost unimaginable to an American consumer. The variety of electronics for sale in Tokyo’s Akihabara district makes it a major sightseeing stop. Product-market competition from Sony, Toshiba, and Hitachi disciplines Matsushita. Competition from Nissan, Honda, and Mistubishi disciplines Toyota. And so on.

The buzzword, then, is competition. Competition among firms selling similar products, competition among companies recruiting entry-level employees, and competition among fellow workers vying for promotion. No one should think that Japan’s firms and workers live complacently off the fat of the land.

### *On Natural Selection*

Without stretching the metaphor too far, economic systems can be viewed as involved in a Darwinian struggle in which the fittest and most adaptable survive. As Japan continues to open up to the rest of the

world, will its unique economic system survive? Already, stresses are apparent.

As mentioned earlier, young Japanese are squirming in the corset of lifetime employment; and foreign employers are undermining the system by bidding away talented Japanese workers. Head-hunting may seem a trivial phenomenon, hardly enough to topple an entire system; and it probably is. But if employee sovereignty is central to the Japanese way of doing things, and *reciprocal* labor immobility is a linchpin of employee sovereignty, head-hunting may be more corrosive than you think. So far, the scale of this activity is trivial, but the Japanese clearly view it with alarm.

Financial liberalization and marketization pose a similar problem. If the provision of capital to firms becomes more market-driven and less relationship-driven, the voice of arm's-length shareholders may grow louder, making employee sovereignty harder to sustain and perhaps even driving Japanese firms to profit maximization. Here again, Japan has reason to fear "foreign influence."

Mercantilist trade policies are hurting Japan in an unconventional, and probably unexpected, way. The Japanese bureaucracy's skillful deployment of non-tariff barriers has driven Japan's trading partners, especially the United States, to demand structural reforms. The Structural Impediments Initiative, in particular, seeks to some extent to remake the Japanese economy in America's image by, for example, weakening the *keiretsu* and other institutions of "relational capitalism." To the extent that these initiatives succeed—and I retain some skepticism—the system that has served Japan so well will thereby be weakened.

But foreign influence is a two-way street; and that is my final—and hopeful—message. There is much to admire in the Japanese system of industrial relations: high job security, extensive training, high employee involvement, flexible work forces, relatively egalitarian

workplaces. We cannot, of course, simply import the Japanese system to the United States. Too many of our laws and institutions, not to mention our cultural traditions, are vastly different. But the success of Japanese transplant operations in the U.S. shows that you do not need Japanese workers to run a "peoplistic" firm. And the successful blending of equality and efficiency in the Japanese economy suggests that their system may have good survival characteristics.

I do not wish to exaggerate the ease with which an entire economic system can be overhauled. Under current U.S. laws and financial traditions, a firm wishing to elevate its employees to primacy over its shareholders would encounter a host of formidable barriers, including but not limited to takeover bids and stockholder lawsuits. It is far from easy to run a lifetime employment system when other firms in the system keep raiding you for talent. And American labor unions will not be anxious to transform themselves into company unions; some are even suspicious of the notion of labor-management cooperation.

But other parts of Japan's "peoplistic" system—like quality circles, team work, relatively egalitarian pay structures, and extensive employee involvement—can be put in place in America right now, with no need for institutional change, if management so desires. The employment practices of Japanese transplants in the United States, not to mention those of leading domestic companies like Hewlett-Packard and Corning, are adequate proof of that. In the American context, the introduction of profit sharing and greater labor-management cooperation are probably the logical first steps.

My fundamental point, however, is that thinking about institutional change is a necessary precondition to doing any. Perhaps Americans should spend less time cajoling the Japanese to be more like us and more time considering whether we might do better by being more like them. ♦

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# Race, Gender, and the Supreme Court

*Deborah A. Stone*

**T**he confirmation hearings of Clarence Thomas were a great national Rorschach test. The lesson, some say, is that the United States has made great progress in race relations. Or, is it that racism is alive and well? Some concluded that women gained a new place in politics, so that even an issue as threatening to men as sexual harassment can no longer be swept under the rug. Others learned that women are still not taken seriously by a male power establishment and it doesn't pay to speak up. For a few, the Thomas affair demonstrated the strength and adaptability of our political institutions. For many, it revealed rot at the core.

Whichever interpretations ultimately dominate the nation's collective self-understanding, politics after Thomas will never be the same. The hearings not only changed the way we will frame issues of race and gender, but also the institutional machinery with which we will resolve them. Lost in all the rumbling about race and gender and party politics is the most profound transformation of all: the gradual erosion of the Supreme Court's moral authority as it becomes less a co-equal branch and more explicitly a creature of presidential ideology and policy strategy.

Political analysts of every stripe immediately recognized the nomination as a brilliant maneuver to split the traditional liberal alliance between the civil rights movement and the women's movement. By naming an anti-affirmative-action black man to fill the ninth seat on an otherwise all-white court, Bush forced liberals to choose between black representation on the court or public policy efforts to create opportunity for minorities. By naming an opponent of choice on the abortion issue, he forced liberals to choose between their

black constituents, who strongly favored a black replacement for Justice Thurgood Marshall, and their female constituents, who for the most part favored leaving abortion decisions in the hands of individual women. In short, liberals had to choose between the potent symbolism of demographic representation and the pragmatic reality of policy substance.

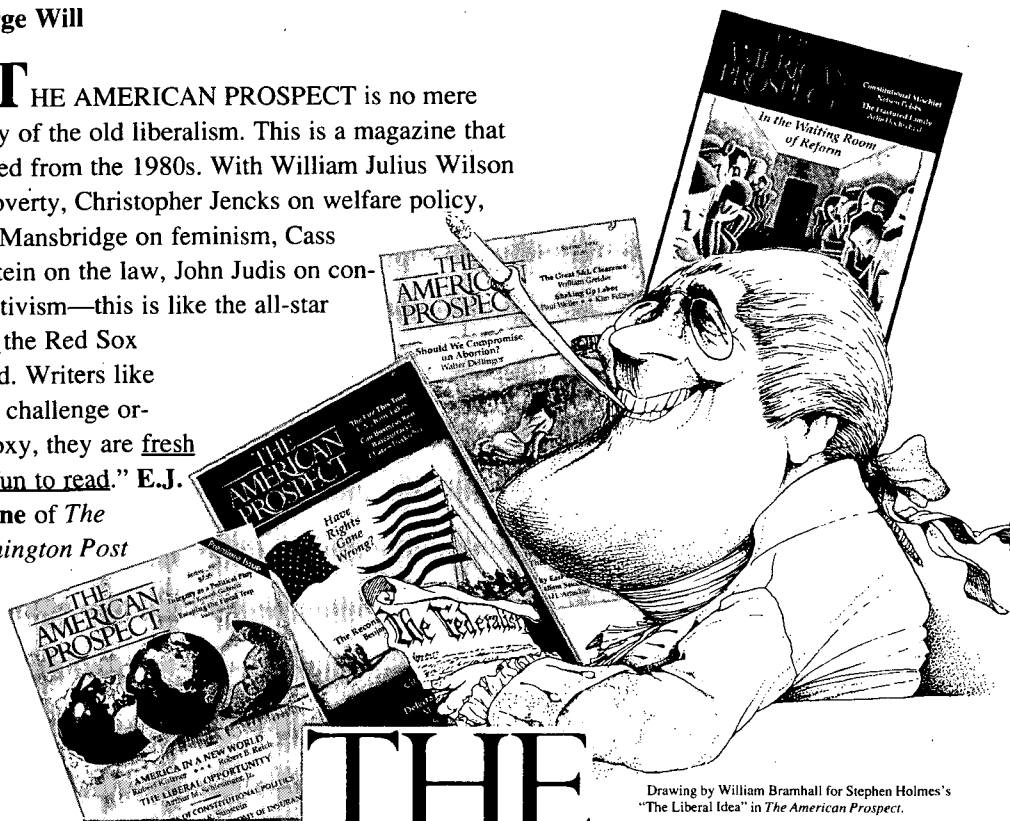
The real comeuppance for liberals is that they will have to stop relying on crude symbols of race and gender, and instead develop policy positions that speak to women and blacks in all their diversity about issues of well-being, work, and family. This means going beyond the civil rights agenda of the sixties, and even the social equality agenda of the seventies and eighties, to a deeper understanding of how discrimination, subjugation, and exclusions work—and work differently—in different social institutions.

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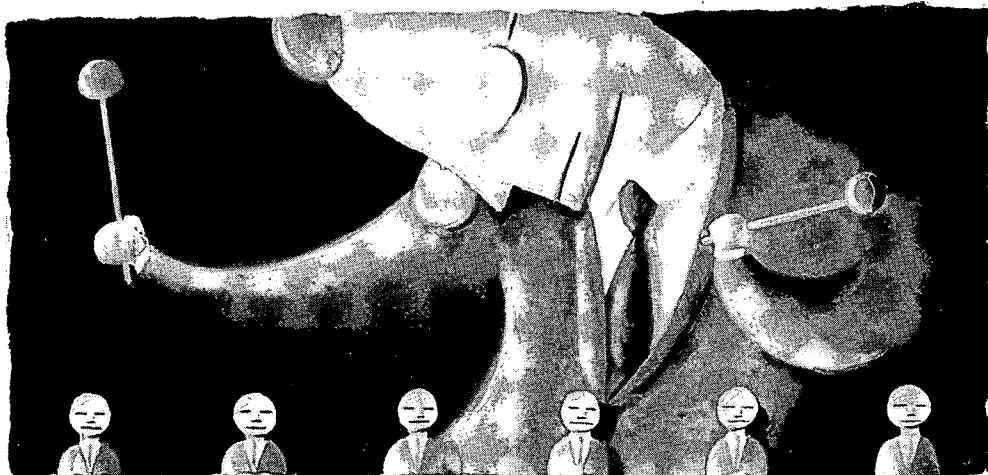


Drawing by William Branham for Stephen Holmes's "The Liberal Idea" in *The American Prospect*.

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### *Affirmative Inaction*

Republicans successfully maneuvered the confirmation process so it became a parable about the dangers of affirmative action as conservatives have portrayed it. Liberals, so the conservative story goes, in their efforts to provide equal opportunity for the disadvantaged, might ignore competence, sacrifice quality, and destroy organizations in the process. The Democrats fell right into the conservative trap and played out the script.

First George Bush, a steadfast opponent of affirmative action who sees quotas lurking everywhere, made a nomination that looked an awful lot like filling a black quota on the Court. He named a black man who had less than a year and a half of judicial experience; lacked any coherent judicial philosophy; and was in all probability willing to lie to get the job, since it is unlikely in the extreme that a lawyer of his generation never discussed *Roe v. Wade*.

Next, Clarence Thomas, who has insisted blacks don't need special consideration, that they should earn their positions the hard way, invoked racism as a special consideration the moment he got into trouble, precisely so he wouldn't have to defend against the harassment charge the hard way. ("I will not get into any discussion about my private life," he said, and Democrats on the Judiciary Committee obliged him. Only a week earlier, he and the

White House had peddled his private life as his main qualification for the job.) Even though Thomas is black, and pejorative racial stereotypes about sexuality do exist, does that mean his behavior cannot be examined and held to the standards of the law of the land? Thomas seemed to think so.

Thus, conservatives capitalized on the very brand of affirmative action policy they nominally reject: fixed quotas and lowered standards applied on the basis of skin color. The southern Democrats, too, used Thomas as a cipher; if voting for him would get them kudos from their constituency, they would support him, no questions asked. Sad to say, many liberals participated in this form of deference to skin color, though it is not the brand of affirmative action most would otherwise defend. Hobbled by the Dixiecrats, by their own unwillingness to play hardball politics, by Senator Ted Kennedy's personal troubles, and by a general squeamishness about confronting racial issues head on, liberals on the Judiciary Committee did exactly what many people most fear and resent about affirmative action: They brushed aside the question of the candidate's competence.

Although the American Bar Association rated Thomas as only "minimally qualified" for the Supreme Court, the Judiciary Committee failed to investigate his competence in any serious way. They deferred to him when he

insisted he had no opinion on issues of jurisprudence or specific cases, or when he said it would be "inappropriate" or "im-

*The Democrats allowed the conservatives to act out a bankrupt version of affirmative action, one likely to displease both black and white voters.*

proper" for him to comment on recent cases. Improper for someone applying for a permanent job on the Supreme Court? When the committee questioned Thomas about legal views he had expressed in speeches, he often replied that his statements weren't really his positions, that they were thoughts of the moment, and that he hadn't really understood the implications of decisions about which he had offered strong opinions. His strongest defense was that his critics had mistaken mere opportunism for extremism.

The Judiciary Committee largely ignored all these signs of his inability to articulate a coherent position, and assumed instead that he was stonewalling to avoid giving opponents anything to use against him. But it was entirely possible and plausible that Thomas simply didn't know constitutional law and didn't follow the jurisprudential disputes about recent cases of the Supreme Court. No one was willing to push very hard to find out.

The Democrats' great political failure on affirmative action went virtually unnoticed. They allowed the conservatives to act out a bankrupt version of affirmative action, one that ought to get elected representatives into trouble with both black and white voters.

Democrats might have started by forcing Thomas to address his views on affirmative action in the context of his own life. They could have used the Thomas family story [See article, page 78] to show that

access to jobs in the privileged, primary labor market is largely through expensive credentials and personal networks. Lacking these credentials and networks, most of the working poor, like Thomas's sister and mother, participate in a secondary labor market where the jobs are underpaid and carry no pensions, health insurance, unemployment benefits, job security, or pathways to better jobs. Economic security and upward mobility through hard work—the great social backdrop against which affirmative action seems unnecessary—are simply not there for many Americans.

Democrats might have used the hearings to challenge the conservative portrayal of affirmative action as a departure from the "normal" merit-based system of job recruitment, promotion, and pay allocation. They could have asked Thomas whether he supports veterans' preferences and seniority, two major departures from merit in the normal labor market that overwhelmingly disadvantage women and blacks respectively.

They could have shown how the notion of individual achievement used by conservatives to promote Thomas and debunk affirmative action profoundly oppresses women. It labels men like Thomas, supported at every stage of his life by female relatives, as products of their own efforts, while it denigrates women like his sister, who work at taking care of their families, as dependent scroungers.

The hearings were, at bottom, a political default. Many Democrats have come to accept the tacit premise that a President is entitled to his Supreme Court nominees, no matter how scantily qualified, no matter how extreme their views. The Senate was moved to vote down Robert Bork not because of his extreme views, but because of his extreme arrogance. Thomas in the end received forty-eight negative votes rather than the anticipated thirty to thirty-five, only because of the sexual harassment charge. Democratic senators seem to accept that as

long as a candidate has no overt prejudices, no criminal record, and—better yet—no record of jurisprudence, controversial or otherwise, they are obliged to vote for him. They seem to accept that if they turn down scholarly right-wing judges, the corollary is that they must vote to confirm mediocre ones.

These assumptions are, of course, preposterous. The Democrats ought to demand that the President's judicial nominees be both judicially distinguished *and* ideologically moderate, not one or the other. This is, after all, the all-time record era of divided government. It is only reasonable that a President who shares power with a Democratic Senate should not be able to insist on nominees well to his own right—men whom he has been nominating mainly to curry favor with the Republican party's extreme right wing. Bush has no respect for either the Senate's advise-and-consent function or for the Court's stature as an institution. Dwight Eisenhower, who had both, nominated William Brennan—William Brennan!—with the full knowledge that he was a liberal Democratic state judge, as well as Earl Warren, a moderately liberal Republican governor.

### *Supreme Courtship*

It was a failure of politics in the first set of hearings—a failure to challenge the candidate's temperament, philosophy, and qualifications—that led indirectly to the bungled attempt in the second set of hearings to challenge the candidate's character. If the hearings united everyone against the *idea* of sexual harassment, they also exposed profound disagreement over what it is. The term is nowhere mentioned in Title VII of the Civil Rights Act of 1964, but since 1986, the act's prohibition of "discrimination on the basis of sex" has been interpreted by the Supreme Court to include two types of sexual harassment: "Quid pro quo" harassment, when a supervisor or employer makes sexual favors a condition of the job or promotion; and "hostile environment" harassment, when an em-

ployer permits unwelcome remarks, pornographic posters, or constant attention to a person's sexuality that interferes with her ability to perform her job.

The treatment of Anita Hill demonstrated one of the inadequacies of formal civil rights law. When a woman comes forward with a sexual harassment claim in 1991, she is protected by a judicial doctrine that recognizes sexual harassment as a civil rights violation. But judicial doctrine is only as good as the way it is interpreted, and sexual harassment, like

*Anita Hill's hearing was a kind of symbolic rape trial. Her virtue and character were challenged, while Thomas's behavior and motives were taken at his word.*

rape, has mostly been adjudicated from a male point of view which largely ignores realities of gender power.

Hill was verbally battered by older white men who asked her in a hundred ways why she hadn't behaved as they would have in such a situation. Why had she followed Thomas to another job and maintained good relations with him if she found his behavior so unbearable? They simply could not imagine what it is like to try to make it as a young, black woman in a racist, sexist world. As soon as they got close to understanding, they shivered at how the dirty little secrets of their own world of power would look to the American public. Perhaps, as elected politicians, they could imagine all too well what it is like to have to make nice to people you despise but whose support you need. But like Clarence Thomas, they pretended that individuals make their careers by themselves, and so refused to regard Anita Hill's situation from the point of view of someone who needs other people—and knows and admits she

needs other people—to get anywhere.

Anita Hill's hearing was a kind of symbolic rape trial. Her virtue and character were challenged, while Thomas's behavior and motives were taken at his word. Her sexuality was examined and pontificated upon by witnesses-turned-pop-psychologists. Witnesses for Thomas were encouraged to speculate on her motivations for fantasizing the events she described. An acquaintance was brought in to testify to her proclivity to see romantic interest where there was none. She even underwent the ritual physical examination familiar to rape victims, this one in the form of a lie detector test. Though Senator Joseph Biden, the Judiciary Committee's chairman, didn't admit the test as evidence, it is a tribute to the power of the symbolic ritual that her lawyer advised her to take the test, while Bush publicly called it "a stupid idea" for Thomas.

For all the prurient interest that may have made people watch, listen, and read, the motive force for this national exercise was a clash of deep male and female anxieties. For women, it was the anger at being transformed into a raw sexual object and the powerlessness to stop or undo that transformation. For men, it was the fear of false accusation and of prosecution for a crime whose standards are not clear to anyone, least of all themselves.

The hearings, surveys, interviews, and polls dramatized this conflict without moving an inch toward resolving it. We were left with a host of questions. What are the limits of permissible courtship in the workplace? Have the boundaries of the workplace expanded to include the bar around the corner, the restaurant, the apartment near the office, the out-of-town conference hotel? What can a woman reasonably be expected to do to defend herself at the moment? Since sexual harassment, like rape, is usually an offense without witnesses, what will count as evidence? How can a man defend himself against harass-

ment charges besides simply denying them?

For starters, to frame the issue as one of confusion over standards of permissible courtship is to miss the mark. True, harassment often includes activities that in another context would be courtship—asking for a date, making flattering comments, touching, kissing—but context is all the difference. Though the workplace is often the setting for social mixing, the job and particularly the supervisory relationship are not mixers. No woman or man can do his or her job, let alone be perceived as doing it well, while being treated as an object of sexual conquest. What may seem to a man a minor sexual comment, joke, or advance can assault a woman by abruptly shifting her mental focus from work tasks and temporarily casting her out of her work role. That's the mild form. Sexual demands, forced conversations about sex, or unwelcome touches do more than temporarily displace her identity; they suppress it and deny it by making her sexuality more important than her work. This is what women mean when they say harassment is about power, not sex.

This is also why styles of courtship are irrelevant. The issue is not, as Orlando Patterson wrote in *The New York Times*, whether people from different regions, social classes, or ethnic backgrounds have different styles of courtship. According to Patterson, regaling a woman with "Rabelaisian humor" is a normal part of Southern working-class courtship ritual, and Anita Hill, who surely understood that, was "disingenuous" when she displaced Thomas's behavior from its context and brought it into the white, upper-middle class work world of the senators. Patterson concluded that if Thomas had done exactly what Anita Hill said he did, he would be morally justified in lying because she had applied the wrong standards to his behavior and he didn't deserve the "self-destructive and grossly unfair punishment" that telling the truth would bring.

Therein lies the rub. Just whose standards should be applied to the kind of be-



havior at issue here? Sexual harassment, like rape, is a crime of coercion (though it is not strictly a crime, but a civil rights violation). Harassment is coercing someone into sexual contact they don't want to have and coercing them out of one identity and into another. Only genuine consent can render an activity non-coercive, and therefore the standard of judgment should reflect how the action looks to the weaker party, given the real disparity of power. It is a mockery of the liberal ideal of autonomy to interpret a potentially coercive relationship from the point of view of the person who has the power to coerce. The only just criterion in a harassment case is whether the woman felt she had the freedom to resist, without taking career risks.

**I**s that unfair to men? Are men supposed to be mind-readers, you ask? Well, yes. Parents, who exercise inordinate physical and psychological control over children, are morally and legally obliged to understand their children's needs, even when their children can't talk. They are not free to abuse children because the children don't protest. In any situation of power, the powerful have a moral obligation to see the world from the point of view of those they govern or control, and to exercise power in the interests of the governed. Just consent is what makes power legitimate instead of tyrannical.

Especially since most harassment takes place in private, with no witnesses, the weaker party needs the protection of a legal standard that says her "no" means "no." She can't enforce her "no". Sometimes, she feels too threatened even to utter her "no." As long as men are in positions of power, the burden is on them to anticipate how their actions affect weaker people. This is the burden that goes with the privilege of power.

There is work to be done to get this standard to prevail in courts as harassment cases are adjudicated, and even more important, in men's heads as they live their daily lives. The women's cause was enor-

mously advanced by the outpouring of tales of harassment following the Hill testimony. Perhaps the next step should be "outing"—telling stories with names attached. The fear of false accusations might just do wonders to get men to feel in their stomachs the vulnerability and powerlessness women live with constantly.

### *Fair Judging*

It is in just such situations, where the points of view of the powerful can obliterate those of the weak, and where objective evidence is difficult if not impossible to obtain, that we most need judges we can trust. We need judges who have the capacity to empathize, to evaluate evidence and arguments from multiple points of view, and to suspend judgment while they move between different points of view. Clarence Thomas showed few of these qualities.

As Ronald Dworkin noted in the *New York Review of Books*, Thomas asserted views in a speech to the Heritage Foundation that

*As long as men are in positions of power, the burden is on them to anticipate how their actions affect weaker people.*

would logically require the Supreme Court to outlaw abortions after conception. (In other words, the Supreme Court should not just roll back *Roe v. Wade* so that states may outlaw abortions if they wish, but it should revoke the states' current authority to permit abortions.) If, as he told the Judiciary Committee, he was merely trying to appeal to his conservative audience in that speech, had only skimmed the article whose ideas he endorsed, and had thought the ideas would be interesting "to play around with," then he has a rather cavalier attitude about the responsibilities of a federal judge to develop considered views on issues over which he will exercise great power.



Thomas gave us other glimpses of his cavalierness toward judging. In maintaining he had never discussed *Roe v. Wade*, he was saying he felt no need to engage with the legal community or anyone else about one of the major constitutional and political issues of his era. In endorsing the view that Anita Hill was part of a liberal interest group conspiracy to undo him, he showed a healthy disrespect for evidence. In announcing that he had not watched or listened to any of Anita Hill's testimony, he showed a disdain for the fact-finding process. It is not clear which is the scarier prospect: a Supreme Court justice who thinks abortion should be entirely outlawed, or one who thinks it is proper for a judge to decide without paying much attention to evidence or argument.

### *Equal Opportunity on Trial*

In the background of the Thomas hearings was the paradoxical issue of affirmative action. Was he the ultimate affirmative action hire? Would he do the ideological bidding of his conservative sponsors and be the definitive fifth vote against affirmative action? And is affirmative action worth defending? This was the debate that the Judiciary Committee never quite had, and one that liberals ought to be leading. In the hearings themselves, the Democrats failed to use the confirmation process as a venue to dissect the symbol affirmative action has become, and to defend a coherent affirmative action policy aimed at making formal legal equality a reality.

In the university, ordinarily a bastion of liberal values, the scramble to recruit black university professors from a very small pool of qualified applicants has created a mentality of grudging tokenism in many academic departments and has left a residue of bad feeling among the professorate of both races. Many white college professors feel coerced into hiring colleagues of seemingly lower formal qualification, while many highly qualified blacks resent the presumption that they were hired only because of their race. This

dynamic has left some liberal intellectuals particularly skeptical of the whole approach. However, it is wrong to project the college experience onto affirmative action generally. Affirmative action is not simply, or even mostly, for professional elites. The real action is out there in construction, manufacturing, clerical jobs, unionized public-sector jobs, transportation, and the like. It is in these sectors that formal qualifications matter less, yet oddly, minorities and women have been excluded from the better paying manual jobs.

Affirmative action has also been criticized for giving disproportionate help to relatively advantaged blacks, while ignoring masses of poor blacks. But affirmative action was never intended as a means to improve jobs at the lower end; it couldn't possibly do anything to increase pay, benefits, job security, or advancement opportunity in the secondary labor market. Of course, we ought to make bad jobs better through other policies such as minimum-wage, tax credits, health insurance, and unemployment insurance; and we ought to make paid employment less hostile to family life.

Liberal leaders need to explain that the working poor are poor and sometimes unemployed because their government and business leaders don't provide a stable economy and a decent safety net, not because unqualified women and members of minority groups are taking their otherwise terrific jobs. But affirmative action shouldn't be blamed for these broader economic failures. Rather, affirmative action was intended and designed to improve access to better jobs and careers, and to do so by altering systemic barriers to entry. In that, it has succeeded.

Liberals need to distinguish between the caricature of affirmative action exploited by the conservatives and the original spirit of affirmative action. They would do well to remind citizens—and themselves—of the social circumstances under which the Johnson ad-

ministration devised affirmative action and the Supreme Court approved affirmative action in the first place. In 1965, under Executive Order 11246, the administration required federal contractors to take affirmative steps to overcome past patterns of racial exclusion. In 1969 the Nixon administration's pilot "Philadelphia Plan" added the requirement of specific "goals and timetables" to overcome persistent racial exclusion in skilled construction work. In the 1978 *Bakke* case, involving a University of California minority admissions plan, a fragmented Court concluded that minority representation goals could be constitutional. In 1979 the Supreme Court approved a voluntary affirmative action plan adopted by United Steelworkers and Kaiser Aluminum. The company hired only people with prior experience for its skilled crafts positions. On its face, the prior experience requirement was neutral, but since black workers had long been excluded from craft unions, few had any experience in skilled craftsmanship. To address this problem, the union and company created an on-the-job training program for all its employees. Entry into the program was determined by seniority (which again gave white workers an advantage), but half the slots were reserved for black employees, even if they had less seniority than other white applicants.

The Supreme Court's first explicit approval of a court-imposed plan with preferential hiring goals came in 1986, in a case filed against a local union of the Sheet Metal Workers International Association by the Equal Employment Opportunity Commission. The union had barred black workers from its apprenticeship program until 1964, and after that, continued to award apprenticeship positions primarily on the basis of "sponsorship" by current union members. Obviously, the sponsorship requirement, although it never mentioned race, had the effect of keeping out non-whites. By the time the case reached the Supreme Court, the union had ignored several court orders enjoining it to stop its

discriminatory practices and increase its hiring of non-whites.

Also in 1986, the Court approved a voluntary affirmative action program in a government agency. In this case, the Santa Clara County (California) Transportation Agency was trying to increase the number of ethnic minorities and women in professional, administrative, technical, and skilled craft positions. In fact, at the time of this case, there were no women in the 238

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skilled craft jobs, although women were 36 percent of the area labor force. Despite the nominal openness of traditionally male jobs to women, deep and long-standing patterns of hostility to women prevented them from seeking these jobs or succeeding in them. So the agency set long-term hiring and promotion goals based on percentages of ethnic minorities and women in the area labor force, but didn't reserve any fixed number of slots for these groups. Instead, its plan called for taking sex and ethnicity into account as additional factors when there were several qualified applicants for a position. On that basis, the agency promoted a woman to the job of road dispatcher, from a pool of seven applicants who were deemed qualified after a first interview. The plan was challenged by a man who had received two points more than she—on an eighty-point scale—in the initial interview. (Think about the validity of a two-point difference in anything so subjective as an interview.) The Court allowed her promotion and the plan to stand, noting approvingly that the agency's plan created no "absolute bar" to men, set no quotas, and used sex and ethnicity criteria

only in addition to job-related standards.

These cases established the broad outlines of affirmative action policy. Neither these nor other affirmative action plans approved by the Supreme Court were cases of someone arbitrarily seeking to fill a statistical quota for women or minority workers. They were cases where simply changing the formal rules and nominally opening up jobs and training programs to previously excluded groups was patently insufficient to establish genuine equal opportunity.

Affirmative action is sometimes necessary to enforce formal civil rights. Deeply rooted patterns of racial and gender exclusion, harassment, and discrimination have not been eliminated by one generation of civil rights law. The Supreme Court has approved race-conscious remedies when ostensibly race-neutral selection procedures either deliberately or inadvertently perpetuate the effects of prior discrimination. The Court has shown an increasing preference for race-neutral remedies, but has never said that race-conscious remedies for prior discrimination would be impermissible when race-neutral remedies are ineffective.

There is still plenty of room for this kind of affirmative action, if only liberal leaders dared articulate a rationale. Defensible affirmative action programs do not, as the caricature suggests, put people in skilled positions for which they are not qualified. They put sufficiently qualified people in a position to acquire more skills and knowledge, and to be eligible for further upward mobility genuinely based on their achievement. These programs recognize that when there is a surplus of qualified people for any job or training position, it is permissible to take into account other standards, such as ethnicity or sex, in making a selection from a pool of qualified people. The Supreme Court has consistently endorsed this kind of affirmative action, as long as the plan is temporary and doesn't entirely exclude whites or males from the opportunities.

Of course, an increasingly conservative Court may well pull back from the brand of affirmative action that seeks to broaden minority representation on the job, and narrow permissible affirmative action to cases of individual remedy rather than redresses of social patterns of exclusion. But that is no reason for liberals to give up on the affirmative action ideal, any more than liberals should give up on reproductive rights because the courts have begun to erode the guarantees of *Roe*. As in the case of *Roe*, an increasingly hostile judiciary means precisely that liberals must win their case in the court of public opinion and electoral politics. The tellingly labeled "Civil Rights Restoration Act," opposed by the administration all the way to the signing ceremony in the Rose Garden, illustrates how strong political action can and should counteract backsliding by conservative courts.

Since 1989, attempts to overturn major Supreme Court rulings have been virtually permanently on the congressional agenda. The Thomas hearings, brought an almost immediate White House "compromise" on the previously deadlocked civil rights legislation, which, for all its gaps, is a vigorous rejection of a major line of recent Supreme Court interpretation. Congress failed to overturn *Rust v. Sullivan*, the "gag rule" on publicly funded women's health clinics. Ironically, that failure will probably assure that abortion is a prominent issue throughout the 1992 presidential campaign, and therefore a constant reminder of just how far out of touch with the mainstream the Supreme Court has strayed.

### *Congress and Court in the Dock*

By the end of the second round of hearings, nearly everyone had lost sight of the Supreme Court as an institution. The Senate didn't grapple in the slightest with the institutional questions raised by Anita Hill's testimony: In the adjudication of disputes, how should judges assist the weak? How, in other words, is a court to be more like an umpire and less like a hired thug? And getting down to the brass tacks of advice

and consent, is Clarence Thomas a man who has any moral sense of how to handle his own power? The Senate failed as a body of public counsellors. It behaved instead like a master of television ceremonies and submitted Hill's and Thomas's performances to the national clap-o-meter of a hasty public opinion poll.

Most senators framed the issue as a criminal trial where the decision was guilty or innocent. Senator Biden told *The New York Times* "In my mind if there is substantial doubt, you resolve that doubt in favor of the accused." Beyond-a-reasonable-doubt is indeed the standard of justice courts apply when they are considering depriving someone of fundamental liberties—sending them to prison, for example. But it is assuredly not the appropriate standard when a legislature is considering elevating someone to a position of great power, from which he can be removed only with tremendous difficulty, and in which he will decide on the liberties of every citizen. Senator Kennedy came close to the point when he said, "In a case of this magnitude, where so much is riding on our decision, the Senate should give the benefit of the doubt to the Supreme Court."

Lacking any standard by which to assess the rightness of political issues, our politicians grab at standards from other spheres of life, such as personal character or criminal trials. The important questions remain unasked: What kind of institution is the Supreme Court? How and to whom is it accountable? What are reasonable criteria by which to evaluate the qualifications of proposed justices? What makes for good judging, and how can the extraordinary power of judges contribute to democracy rather than erode it?

While the legal scholars are still debating whether judges decide by some neutral principles of legal reasoning or are mere mortals exercising power, the public and the politicians know the answer. Nomination politics over the last few years has made that clear to anyone who doesn't remember Franklin Roosevelt's court-

packing scheme. The last two Presidents have nominated judges with extremist views, and used their appointment powers to gain control of the judicial branch and thereby implement their preferred policies, in open defiance of Congress. Congress and interest groups have responded by playing the same game—though far less adroitly—treating the federal courts, and especially the Supreme Court, as just another political institution to be "won."

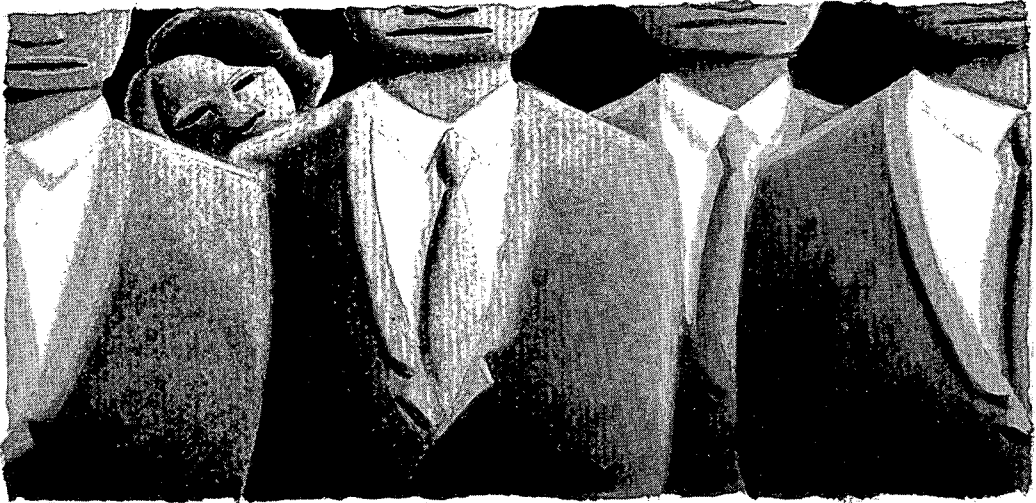
Even the Supreme Court, in an otherwise unobjectionable spring 1991 decision holding that elections of state judges are subject to the Voting Rights Act, implied that courts are political bodies. But if judges are to have legitimacy as neutral umpires and if they are to decide conflicts on the basis of higher principles, then they must not be regarded as merely political creatures representative of particular constituencies or current ideological fashions. If courts become merely representative institutions rather than deliberative ones, they risk losing their ability to resolve conflict on the basis of principle rather than raw power, and the rule of law suffers.

The Supreme Court's moral authority may have taken particularly heavy blows with the Thomas appointment, but if so, these losses are only part of a larger trend. Supreme Court nominations are increasingly hard to distinguish from electoral campaigns. Large majorities of Congress have voted on several recent occasions to overturn Supreme Court rulings. Coming at a time when several Supreme Court rulings on civil rights and one on abortion were under siege within Congress, the Thomas hearings only further dramatized that the Court's decisions are the result of a highly politicized selection process, just like the decisions of the other branches of government. It may be harder and harder to sustain popular support for the least democratic branch. Not that anyone will attempt to do away with the Court, but the Court's only real enforcement power resides in its ability to command respect and exert moral suasion. ♦



# Invisible Woman

Katherine Tate



Political divisions within the black community are extremely rare. Not only do the overwhelming majority of black Americans vote Democratic in presidential races, but a majority also express fairly uniformly liberal views.

Yet when President Bush nominated black conservative Clarence Thomas to the Supreme Court, early opinion polls showed blacks uncharacteristically divided. And when Anita Hill's allegation of sexual harassment became public, even more blacks came to favor Thomas. By the end of the special hearings, not only did opinion polls show that a majority of black Americans as well as whites believed Thomas over Hill, but blacks also sided with whites in favor of Thomas's confirmation.

In the Thomas hearing, black opinion carried perhaps more weight than usual. In the final 52-48 vote, a number of his swing Southern Democratic backers in the Senate

attributed much of their decision to Thomas's strong support in the black community. Black women's opinions were also crucial here. Had black women turned against Thomas, feminist supporters of Anita Hill might have had more influence in the outcome.

Why did black Americans, the vast majority of whom are liberal, support Thomas? Why did Hill's charges actually strengthen black support for Thomas? And why were black women not as believing of Hill as other groups?

Evidently, Hill appeared neither more credible nor more heroic to black women than to black men or to whites. Observers have offered a variety of explanations. Perhaps black women, a majority of whom are working class, could not identify personally with Professor Hill or her ordeal, since many such black women themselves had experienced and survived even worse



sexual assaults in the workplace. Another theory holds that black women are not particularly sympathetic to feminism; or that they ascribed to Hill jealousy of Thomas's white wife; or that black women's general protectiveness of black men explained their surprisingly unsupportive reaction to Hill. The real story is tangled, complex, and revealing.

The black majority's liberal interests and its stakes in the judicial process would have predicted an almost uniform opposition to Thomas. Blacks, after all, had been opposed to Robert Bork, whom both civil rights and feminist organizations viewed as a dangerously extreme conservative. In a 1987 Gallup poll, while 34 percent of whites thought that Bork should have been confirmed, only 14 percent of blacks thought so. Moreover, in contrast to most whites, a majority of blacks desire a more liberal Supreme Court. Another 1987 Gallup poll found that 53 percent of blacks surveyed favored a more liberal Supreme Court, compared to less than 30 percent of the white respondents.

Blacks have rarely supported black conservatives in the voting booth, and surveys show a majority opposed in principle to racial voting. Black Republicans have obtained no more than a quarter of the black vote in statewide or national races. Bill Lucas, a black Republican who ran for governor of Michigan in 1985, got only 21 percent of the black vote. Black Republicans have tended to do better in working-class and poor black areas, however. For example, Alan Keyes, another black Republican, received 41 percent of the vote in the majority-black city of Baltimore in his 1988 Senate bid compared to Bush's 25 percent. However, he received only 30 percent of the vote in Prince George's County, a middle- and lower-middle-class suburb of Washington that is half black.

But Thomas was not running for office, and there was no opposition candidate to him. Rather, he faced an up or down vote of confirmation to the Supreme Court. And

this reality apparently led to greater black ambivalence toward Thomas than had he run for an elected office. In the absence of concerted black opposition, Thomas undoubtedly did better among blacks than most black conservatives. The NAACP was the only civil rights group to oppose him. The Southern Christian Leadership Conference favored his confirmation, while the national black Urban League remained neutral. Thomas had also distanced himself from some of his more controversial past policy statements, maintaining that speeches made in the past were political statements, not declarations of judicial outlook or philosophy. Many blacks nursed the hope that despite his conservatism, Thomas, as the lone black on the Court would not forget his humble origins from Pin Point,

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Georgia, his roots, and most of all, his race. Others simply viewed Thomas's confirmation as perhaps the only opportunity to maintain black representation on the Supreme Court, with Thurgood Marshall stepping down. In the end, the symbolism of having a black on the Supreme Court greatly outweighed other considerations for many blacks, including Thomas's conservative record.

The Thomas-Hill confrontation took an emotional toll on Americans generally. In spite of some analysts' assertions of silver linings, few actually saw anything good in the event; an ABC-*Washington Post* survey that 58 percent had considered the proceedings a public embarrassment. But for black Americans, the event was especially painful. To paraphrase one black commentator, here were two upstanding, attractive, and

articulate black professionals "beating up one another" in a publicly televised forum. Hill's allegations about Thomas were graphic and disturbing. But in the end, the issue boiled down to credibility and evidence. In the absence of definitive proof—of tape-recorded conversations and eye witnesses to the fact—most people based their opinions on prior judgments about Thomas's fitness to be on the Supreme Court, their beliefs about the fairness of the confirmation process, and their views about the pervasiveness and social relevance of the issue of sexual harassment.

### *The Centrality of Race*

Throughout the Thomas hearings, race remained a pervasive factor, sometimes implicit, sometimes explicit. Race was a central issue in Thomas's qualification for the position—was he selected merely because he was black? Race was made an issue in confirmation proceedings—featured most prominently in Thomas's "lynching" remark, but also evident in the uneasy, even gentle, way liberal interests attacked the nominee and the exultant and sly way conservative interests rallied around him.

Even the sexual harassment charge was racialized. Hill's allegation of sexual harassment was complicated by the fact that she, a black woman, had been harassed by a black man, a charge that would have altered public opinion dramatically if it had been made by a white woman of Hill's professional stature and personal history. White opinion might not so readily have condoned the sexual debasement of a white woman by a black man, while the debasement of a black woman could be passed off by many as an aspect of the black subculture. In those circumstances, blacks would have rallied to Thomas's defense. Moreover, faced with a hotter, more racially polarized conflict, the committee might well have insisted on a closed session. Race, therefore, permeated every aspect of the proceedings, visibly, from beginning to end. It most critically affected black

opinions of the process and accounts for Thomas's high level of black support.

Thomas received roughly equal support from black women and black men, even after Hill's accusations were publicized. The absence of a gender gap in the black community and the lack of majority support for Hill led some analysts to suggest black indifference, if not hostility, to feminists, who had emerged as Hill's principal defenders. The notion of black anti-feminism is sometimes carried to an extreme by feminists and anti-feminists alike. Supposedly, black American women have no need for women's liberation, having better rapport and relations with their male counterparts than do middle-class white males and females. Orlando Patterson, for example, a black sociologist at Harvard, suggested in *The New York Times* that the brand of sexual harassment raised by Hill—a supervisor talking dirty to a subordinate and suggesting a sexual relationship—reflected unrepresentative preoccupations of white feminists from the professional class, and was not a primary concern for most black people or for the working class generally. Hill's complaint, Patterson wrote, reflected a "legalistic, neo-puritanical and elitist model of gender relations promoted by the dominant school of American feminists." Thomas was merely practicing a "down-home style of courting..."

Yet countless opinion polls have shown that a majority of black women do support feminist objectives. Most black women consider sex discrimination to be a pressing problem. In a 1984 national telephone survey of black Americans, 69 percent of the female respondents felt that sex discrimination was a serious problem for women today, while only 27 percent felt that it was not. Moreover, data gathered by political scientist Jane Mansbridge show that black women, in fact, are more likely than white women to identify themselves as feminists. For example, in a 1986 Gallup survey, 69 percent of the black women polled identified themselves as feminists in contrast to 55 percent of the white women. And when

asked in a 1989 Yankelovich survey, "Do you consider yourself to be a feminist?" 42 percent of the black women respondents said "yes," as opposed to 31 percent of the white women respondents.

### *The Paradox of the Black Superwoman*

It seems clear enough that black women do not reject feminism. Rather, a better partial explanation of black public opinion on Thomas and Hill is the myth of the black matriarch or black superwoman. Black matriarchy has often been characterized as an unfortunate or negative trait, as in the controversial 1965 report by Daniel Patrick Moynihan. But lately the view of black women as matriarchal has been seized upon in some quarters as a source of strength: Black women, supposedly, are "super-tough" and generally can take care of themselves. They know how to survive and endure. Some black women are flattered by the myth, and they can drastically overestimate their individual strengths relative to men. Given the presumed strength of black women—as illustrated by Hill's own cool dignity—many people simply could not understand why Hill, as a strong black professional woman, had not reported Thomas at the beginning. As Orlando Patterson wrote:

My own daughter, Barbara, a post-feminist young woman brought up by two feminists who came of age in the 60's, believes along with her friends that Judge Thomas did say those raunchy things, should have been told at once what a "dog" he was and reported to the authorities by Professor Hill if his advances had continued to annoy her.

Among some blacks, Hill apparently lost personal credibility because of her ten-year silence, since a "real" black woman would have taken the necessary steps to put a stop to her harassment. Some have speculated that black working-class women, subjected to far cruder and more physical forms of harassment, were scornful of Hill and her

belated claims of virtue wronged.

Yet, paradoxically, the framing of the issue as the strong black female against the more vulnerable black male tilted public sympathy away from Hill toward Thomas. Hill, after all, was now a tenured law professor at a large state university, while if her charges stuck, Thomas would suffer—in his words—a fate worse than death. As Patterson remarked: "There is no evidence that she suffered any emotional or career damage, and the punishment she belatedly sought was in no way commensurate with the offense." Despite their mixed feelings about Thomas, few in the black community really wanted to see him "shamed" in this way.

**T**he myth of the greatly advantaged, black super-female versus the greatly disadvantaged and besieged black male has particular resonance today since public and scholarly attention has contrasted the plight of black males with the apparent success of black professional women. Black men currently have unemployment rates twice that of white men and life expectancy rates significantly lower than white men. Black men are over-represented in the prisons and more likely to be on death row. But even for those not in trouble, the 1980 Census revealed that black men take home to their families about 62 percent of what white men take home.

Concern in the black community over the plight of black males has recently led to the idea of separate schools for black boys in Milwaukee and Detroit. However, the American Civil Liberties Union (ACLU) successfully challenged the constitutionality of publicly funded schools for black boys—and it was a black woman who filed the suit with the ACLU. That woman apparently wanted the city to work to improve the educational opportunities for her daughter in the public school system, but in doing so, blocked the new educational opportunities for black boys. It is a tragedy that this issue of the educational needs of black children has pitted black females

against black males, but the fact remains that black girls are as badly educated in Detroit's public school system, and have equally high drop-out rates, as black boys.

Furthermore, while black males indeed face the genuine, not imagined, threat of social annihilation given their high rates of incarceration and homicide, black females also face serious problems linked to their gender and race that often sentence them to a lifetime of poverty and welfare dependency. Still, the public has accepted the myth that black women are generally economically secure whereas black men are not. Many black people, therefore, felt it especially important to side with Thomas given the vulnerable position of black males in

this country even if they found Hill to be credible. As one black woman said in an interview with a *New York Times* reporter:

I've got a husband and two sons. As a woman, I can relate to Anita Hill. God knows we've all been subjected to some form of sexual harassment in our lives. But as a mother and wife, I know this society has a history of mistreatment and abuse toward black men. You have to wonder, what if my son is accused of this. Is he going to get a fair shake?

What gives the myth of black women's economic prosperity its credibility are published analyses that began with the 1980 Census. These analyses indicate that rela-

## Clarence Thomas's

Clarence Thomas presented himself to the American public as a self-made man. His journey from poverty in Pin Point, Georgia to prominence in Washington, D.C., was held up as an example of bootstrap social mobility that makes government equal opportunity programs unnecessary. There was only one little problem with the story: how to explain his sister, Emma Mae Martin, who still lives in a dilapidated frame house with a hole in the roof in Pin Point, Georgia.

Many successful African-American professionals have a sibling who exemplifies the "other" America. Some do what they can to help, perhaps sending money. Some try to forget, and cut off all contact. I don't know whether Thomas did try to help, but he certainly did not forget. He excoriated his sister publicly and used her to exemplify the perversity of the liberal welfare system. "She gets mad when the mailman is late with her welfare check. That's how dependent she is," Thomas told a San Francisco audience. "What's worse is that now her kids feel entitled to the check, too. They have no motivation for doing better or getting out of that situation."

This is an appallingly callous statement and contrary to the facts. As reported in *The Los Angeles Times* on July 5, Judge Thomas's father deserted the family when the children were small. The mother supported the family by picking crabs at five cents a pound. When a fire destroyed their home and belongings, the mother, who could no longer support the children cleaning houses at \$15 a week, sent the boys—not the girls—to live with their grandfather, an independent small-business man.

Judge Thomas's sister, Emma Mae, stayed home and graduated from high school. She got married and had children, and then her husband deserted her. While the judge was attending Yale Law School, she supported her family with two minimum-wage jobs. Her mother worked as a nurse's aide at the local hospital, and an aunt took care of the children.

Then the aunt suffered a stroke, and Emma Mae Martin had to quit work to take care of her. This was when she went on welfare, where she remained for about four and a half

tive to white women, black women's economic situation improved during the 1970s, while black men's economic situation relative to white men has not. One highly publicized finding based on the 1980 Census is that college-educated black women now take home slightly higher average annual salaries than college-educated white women. Such findings taken out of context are very misleading since significant race differences remain between black and white women. Most black women, of course, do not go to college. Black women's unemployment rates remain higher than those for white women, and in some instances, twice that of white women's. Moreover, as heads of house-

holds, black women are often the ones in poverty. Nonetheless, because of the image of black women's improving economic status (relative to white women), rarely do they enter public policy debates nowadays.

### *Invisible Woman*

In the few instances when they do appear in policy discussions, black women are likely to be stigmatized as welfare queens and vaguely implicated in the problems black men face in the inner-city ghettos. It is revealing that during the confirmation process, few liberals took much notice of the way Judge Thomas characterized and then belittled his own sister as a hardcore welfare recipient. (See article below.) In the 1991 fall

## *Invisible Sister*

years. Now she works as a cook at the local hospital, reporting to work at 3 a.m. She has three children. One works as a carpenter; one was just laid off, and the fifteen-year-old is in school.

This is hardly a story of welfare dependency. The women of this household worked hard at low-paying jobs, took care of one another, and raised their children. It is a story not only of race and poverty, but also of sexism—desertion by husbands, lack of child support, giving boys, not girls, the opportunities to get ahead.

And when the elderly aunt needed care, the adult female relative, not the man—again, typical—assumed the burdens and at that point went on welfare. What was she to do? Can you imagine the long-term care that might have been available to an elderly African-American woman in rural Georgia?

Ms. Martin has since left welfare, again works hard, and her three children are in the labor market or in school. In other words, in the face of great odds, she did exactly what Charles Murray and other conservatives have asked: She completed school, she worked, she got married. She has suffered because of irresponsible men, male preferences, lack of an effective child-support system, lousy jobs, and a lousy health care system.

What can we say about her brother? He had the advantages. Yet he cruelly distorted her situation and publicly humiliated her and her children. Is this the kind of person we want as justice of the Supreme Court? In contrast, Emma Mae Martin has retained her dignity, tolerance, and generosity—qualities one would like to see in a justice. She holds no malice toward her brother. Nor does she blame her poor family or the government or anybody else for her life situation. "You make your life choices for yourself. I had the opportunity to go to college if I wanted to, but I made the choice. I took care of the older people."

It's too bad she was not nominated for the Court.

Joel F. Handler



issue of *Tikkun*, Kimberlé Crenshaw, a black UCLA law professor, faulted white liberals and feminists for missing the way that gender and race interact in the black community to the particular detriment of black women. When the supposed cure for social

*Thomas's "lynching" remark made the actual substance of Hill's charges seem irrelevant, just as public attention to the urgent plight of black men has shifted the focus from the problems black women also face.*

problems in the black community is "strong men" and "loyal, subservient women," wrote Crenshaw, there is a special kind of oppression that even white feminists fail to perceive.

Although surveys show that the majority of black women are concerned about sex discrimination, their support of feminist causes is limited by their mistrust of white feminists, partly for historical reasons stemming from white women's participation in the larger system of racial oppression. Furthermore, many white feminists tend to heighten that mistrust by overstating the similarities between the conditions and status of white and black women, ignoring what black women perceive to be their more marginal position in society as a result of the double negative associated with being female and being black. (In this respect, Patterson has identified a genuine split, though he wrongly attributes it to the "puritanism" of feminism and his claim that some forms of harassment don't really bother ordinary women.)

The narrow framing of women's issues on the part of some white feminists has also worked against the development of a viable feminist union between black and white women. Indeed, throughout and even after

the Thomas hearings, sexual harassment was articulated by some prominent white feminists as a "special problem" of women professionals. For example, in a *Washington Post* op-ed column, Naomi Wolf, a white feminist activist, maintained that women professionals had "the most to lose" in sexual harassment battles. However, sexual harassment is a concern of every working woman, not the exclusive domain of professional women. Working-class women, not professional women, may well have the most to lose in such matters. Working-class women today face declining job opportunities. At the entry level and for positions requiring limited skills, they are the most expendable. Furthermore, the incomes working-class women bring home are often critical for their family's survival. As the 1980 Census revealed, a majority of black women are the sole economic providers for their family. In addition, research has shown that even black professionals often misidentify themselves as working class, presumably because their middle class status is precarious. But in illustrating sexual harassment, women reporters often portrayed professional women of their own social class, and the media picture of sexual harassment as predominantly a professional women's issue probably kept a large proportion of black women from identifying with Hill. Many black women found it easier to believe the three women who testified on Thomas's behalf—and this was undoubtedly a calculation in the decision by Thomas's "handlers" to give them prominence.

### *Race Trumps Gender*

In the Thomas hearings, the focus on race and racism overwhelmed and diminished the black gender issues. Thomas's "lynching" remark made the actual substance of Hill's charges seem irrelevant just as attention to the urgent plight of black men has shifted public focus from the multiple economic and social problems black women also face. Thomas's

impassioned opening statement during the second round of the judicial hearings, in which he accused the Senate of participating in a "high-tech lynching," was pivotal for his majority-black support. His choice of the lynch metaphor could hardly have been more devastatingly effective, for the lynching of black men has come to symbolize the sum total of black people's oppression in the United States. Michele Wallace, reflecting on this history in *Black Macho and Myth of the Superwoman*, writes: "Obsession with the lynchings of the black man seems to leave no room in the black male consciousness for any awareness of the oppression of black women." The lynch metaphor, therefore, subtly reinforced the popular view of black men's greater vulnerability relative to black women.

Moreover, although few commentators have dared to discuss the relevance of Thomas's white wife, undoubtedly her visible position behind Thomas throughout the proceedings lent a degree of authenticity to his lynching claim since few watching could fail to comprehend (consciously or unconsciously) that most black men had been lynched because of alleged affections or intimacies with white women. In interviews given after the confirmation, Thomas and his wife disclosed that they had greatly feared being attacked during the hearings because of their interracial marriage. Rather than disapprobation, Thomas may have gained sympathy from the black community, who could well believe that an "uppity" black man might be resented and suffer professionally for having a white wife.

Thomas's cry of foul play generated sudden but deep sympathy from most people in the black community, a community that has long experience with injustice. Few wanted to be associated with such an injustice. However, the political significance of the Thomas-Hill confrontation lies not with the question of whether Thomas should have been confirmed in light of Hill's

charge of sexual harassment, but how his use of the lynching symbol was able to transform the hearings into a race loyalty test for blacks, concealing the significance of sexual harassment in the process. The event revealed the way black women's interests can be and have been sacrificed for the sake of the race and how easily the stakes of black women in the promotion of gender equality can be ignored.

Ironically, although tens of millions of Americans were introduced through Anita Hill to the world of the black professional woman, the Hill-Thomas hearings in the end underscored the political invisibility of black women today. As Rosemary Bray, a black editor, wrote in *The New York Times*, "As credible, as inspiring as she was, most people who saw her had no context in which to judge her. The signs and symbols that might have helped to place Hill were long ago appropriated by officials of authentic (male) blackness, or by representatives of authentic (white) womanhood. Quite simply, a woman like Anita Hill couldn't possibly exist."

During this event, black civil rights activists, mostly men, not only kept silent regarding Hill's rights in this matter but maintained their silence on the larger issue of sex discrimination as it affects black women and, therefore, the black community. In this silence, feminists, mostly white, presented the sexual harassment issue as uniquely their concern. Not only were the gender concerns of black women unrepresented throughout, but the Thomas-Hill hearings probably helped to reinforce that old and dangerous stereotype of black women, that black women (like Hill) have "remarkable strength and courage." The hearings reinforced the popular belief of black women's "uniqueness," their ability to absorb a host of injustices against them rooted in class, gender, and race, without crying out. ♦

# Dealing With Legalization

Doug Bandow

Although hostilities abroad have captured the attention of Americans over the last year, the U.S. remains mired in a costly domestic conflict—the drug war. While both President Bush and members of Congress seem to hope the issue will simply fade away, millions of people still use drugs, drug-related crime and killings continue to rise in major cities, drug enforcement officials violate the civil liberties of the innocent as well as the guilty, and drug dealers seduce young people into joining their criminal enterprises.

Yet as the drug war has dragged on, the sense of crisis that once surrounded it has lessened—making this an opportune moment to reassess the war and debate the direction of future policy. For we must consider more than the usual minor reforms advanced by Washington policy makers. We need, instead, a serious and rational debate on the legalization, or really re-legalization, of drugs.

Proposals for legalizing drugs have entered the mainstream of public debate in recent years. Frustration with a futile, yet evermore costly war on drugs has prompted support for legalization from a number of respected, conservative figures, such as Milton Friedman and William F. Buckley, Jr., as well as present and past public officials, such as Baltimore Mayor Kurt Schmoke, former Secretary of State George Shultz, and federal Judge Robert Sweet. Some people, like William Bennett, the former drug czar, have denounced “intellectuals” for even raising legalization as an option. Privately, however, many of those on the front lines, including cops, prosecutors, and pastors, now want to end drug prohibition.

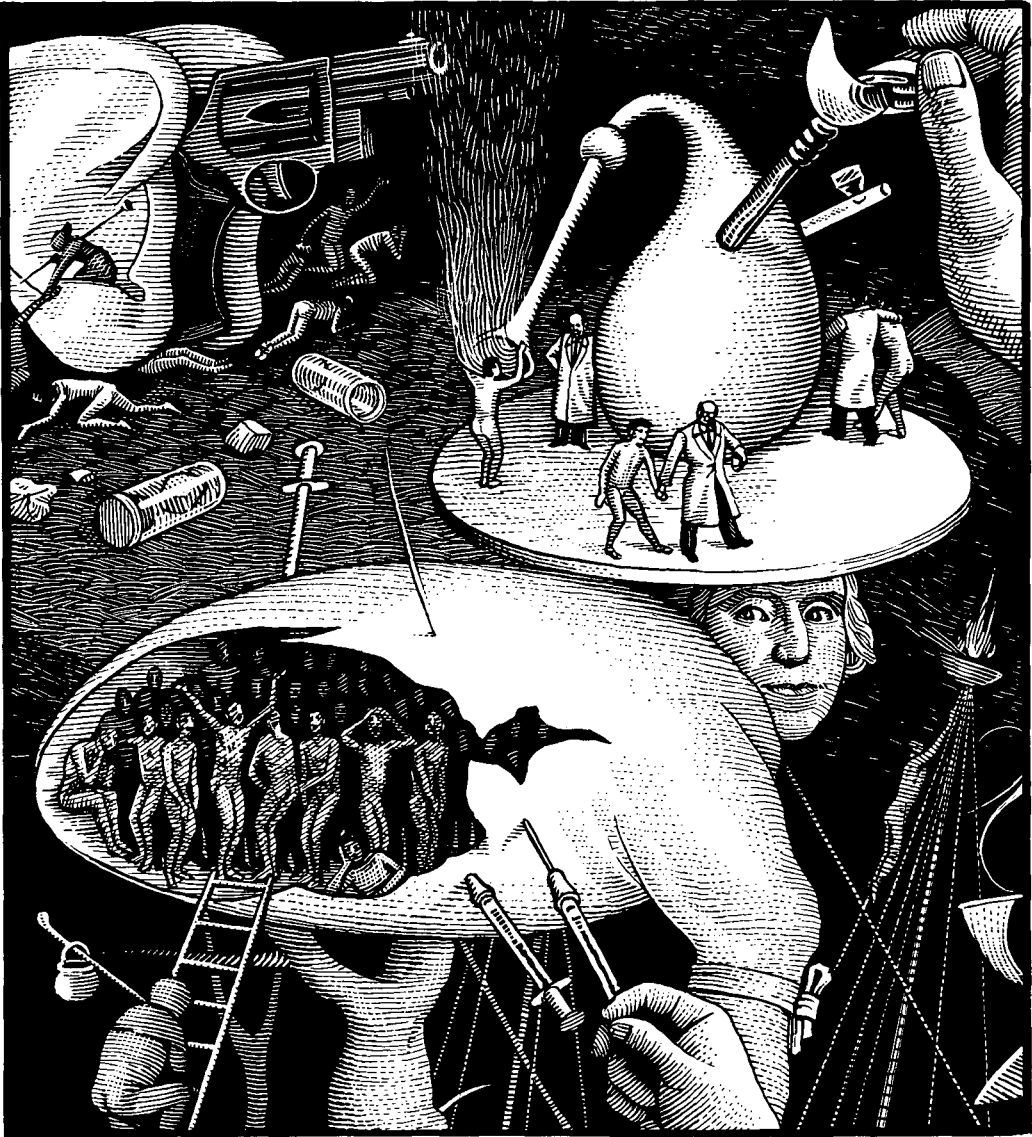
Yet what would legalization really mean? Some advocates of the status quo have found it easier to criticize the absence of a blueprint for legalization than to defend drug prohibi-

tion, as if the lack of detailed consensus among legalization advocates justified the excesses of the drug war. Writing in *The Public Interest* last year, James Jacobs, a professor at New York University Law

## Hard Drugs, Hard Choices

*An Exchange on Legalization*

School, argued, “The lack of a fleshed-out legalization proposal makes it extremely difficult to assess or to criticize the legalization position. Skeptics vainly try to fix their sights on a moving target.” In the interest of putting such criticism to rest, I want to spell



out here how legalization might work in practice.

### *Why Legalization?*

Criminal sanctions against drug use are bad policy for at least five reasons:

- Criminal sanctions against drug use improperly limit the freedom of adults to use substances no more dangerous than others now available legally and imprison people for actions that do not directly harm others, in contrast to most crimes.
- Criminalizing drug use fails to reduce it significantly. A large percentage of the population has experimented with drugs (one-third of those over the age of twelve have used marijuana, for instance). Most others have access to drugs if they want.
- Sanctions increase the danger of drug use by forcing users into an illicit market.
- Criminalizing drugs entices children to use and sell drugs by creating a

criminal underground offering kids economic opportunities unavailable elsewhere.

- Drug prohibition causes the bulk of murders and property crime in major urban areas by creating a black market characterized by warring suppliers, who charge inflated prices to users, who in turn steal to pay for their habits. Drug prohibition also fosters crime abroad, funding violent entrepreneurs and even terrorist insurgencies that threaten fragile civilian governments in poor countries.

The repeal of drug prohibition would, of course, not result in heaven on earth, but it

*Legalizing marijuana alone would end half or more of all current drug arrests, well over one million a year.*

would allow a reduction in spending on the criminal justice system, end the steady increase in arrests and imprisonments, cut the number of deaths from drug use, reduce the temptation posed to children, and cut the crime rate. Overall, drug use would likely rise, but probably only modestly; the increase would consist chiefly of casual experimentation, which is not a serious problem in the absence of criminal sanctions and an illegal market. Although the mere elimination of criminal penalties for drug use would cause some combination of these effects, the exact impact on crime and drug use would depend upon how drugs were legalized.

### *Legalization Options*

The question of what would follow the end of drug prohibition is thus vitally important. "Even if a legalization option were adopted," says one outspoken opponent, Congressman Charles Rangel (D-NY),

"many questions remain as to how drug usage would be regulated." But, he complains, advocates of legalization "never seem to have answers."

Dropping the ban on drug use would not be a jump into the unknown. The United States has long experience regulating alcohol and tobacco and for more than a century allowed the use of cocaine, marijuana, and opium. Moreover, many other nations, such as the Netherlands and Great Britain, eschew America's draconian prohibitionist policies. Marijuana is effectively legal in the Netherlands, while in Britain doctors are able to prescribe not only heroin, but in an experimental program in Liverpool also smokable (though not crack) cocaine.

Because virtually no legalization advocate proposes unrestricted drug sale and use, there are a number of strategies for creating a legal market. These include six major options:

- legalize the less dangerous drugs;
- decriminalize, rather than fully legalize drugs;
- require use through a doctor;
- sell drugs in government stores, as alcohol is sold in some states;
- allow the sale of drugs in private establishments, with some restrictions, such as bans on sales to minors and the use of vending machines;
- permit unrestricted sales.

Since each alternative has somewhat different advantages and drawbacks, we need to give separate attention to each one.

The least radical step to relax drug prohibition would be to differentiate types of drugs, legalizing those viewed as least dangerous. Not surprisingly, marijuana receives the widest support for legalization, although some analysts would add heroin. Stephen Mugford, an Australian sociologist, has suggested distinguishing between cannabis, on the one hand, and cocaine and heroin,



on the other, by making the former available commercially and the latter only through a licensing system.

Partial legalization would eliminate some of the worst features of prohibition by dropping sanctions from the most widely used illicit substance or substances. Legalizing marijuana alone would end half or more of all current drug arrests, well over one million a year, allowing either a reduction in enforcement efforts or a concentration on the sale of harder drugs. Doing so would also cut out an important profit center for criminal dealers.

Moreover, allowing the legal use of pot would help provide a firebreak between use of the most acceptable illegal drug and use of other, "harder" drugs. In contrast to today's illicit providers, legal dealers offering marijuana would have no incentive to move customers on to amphetamines, cocaine, or heroin. Users would also more likely distinguish between a substance viewed as comparatively benign and other drugs that the government was still attempting to keep out of their hands. Dr. Giel van Brussell, head of the Narcotics Office of Amsterdam's Department of Health, cites this as a major factor in the success of his country's policies: Young people can buy marijuana "in the coffee shops and see that it's relatively harmless. They can also see that hard-drug users suffer from physical deterioration." To enforce criminal penalties against both groups, he argues, would merge the two now very different drug scenes.

This approach would also offer the opportunity to expand the policy after further study. Ethan Nadelmann, a professor at Princeton's Woodrow Wilson School, suggests a gradual "shift toward legalization" beginning with the legalization of marijuana, which would provide "ample opportunity to halt, reevaluate, and redirect drug policies that begin to prove too costly or counterproductive."

Nevertheless, maintaining the drug war, even while reducing its scope, would perpetuate many current problems. If heroin

remained illegal, property crime would remain high as addicts continued to steal to finance their habits. Keeping crack illegal would ensure continued violence as dealers fought over territory. Even if the government concentrated on controlling these substances, it would not be able to eradicate their sale, at least not at an acceptable cost. For instance, one briefcase of synthetic heroin could supply all of New York's addicts for a year. America will never be able to eliminate the distribution of so little product between willing sellers and buyers and remain a free society. Nor will foreign nations be free of violence and terror as long as cocaine and heroin are produced in their countries by criminal cartels.

A policy of partial prohibition would also maintain the morally questionable practice of locking up people who do no direct harm to others. It would still drive what is primarily a health and social problem underground, creating a stigma that makes it difficult for some people to get help. And it would discourage medical research and information dissemination about the dangers of drug use.

Another option would be to decriminalize, rather than fully legalize, drugs. The government could substitute civil for criminal sanctions against drug use, punishing users with a fine rather than prison; at the same time the government would maintain criminal penalties against sellers, as did the eleven states that decriminalized marijuana use in the 1970s. (This was, in fact, essentially the law during Prohibition.)

Decriminalization would preserve legal disapproval of drug use, thereby presumably discouraging demand to some degree, without jailing people for harming themselves. Enforcement efforts could be relaxed and prison resources reduced.

Still, decriminalization would not fully address the problems that make legalization the best option. While users would not go to jail, those who were caught would be punished for committing an act not unlike

pouring a drink. Moreover, the government would still arrest and imprison those who supplied an arbitrary set of substances to willing buyers.

As a result, the black market would remain a profitable field for criminals, leaving largely unchanged the problems of corruption, crime, and violence that exist today. And by keeping drug use illicit if not criminal, decriminalization would still discourage drug research and information-sharing, prevent any quality control or dosage standardization for drug use, and leave kids vulnerable to the allure of the drug trade.

Some support exists for a third alternative: requiring the approval of a physician to use drugs, as under the British system. Drug use would be legal, but drugs would be available only through a doctor, who would either provide a prescription or dispense the drugs. In 1989, for instance, New York State Senator Joseph Galiber introduced legislation allowing licensed doctors and pharmacists to sell drugs (without requiring prescriptions). A related approach, advanced by attorney Frederick Campbell, would be to limit the availability of drugs to recognized addicts through special clinics. Or the government could require licensure for legal users. For instance, Mark Kleiman of Harvard University has suggested creating a "drinking license" that could be revoked if abused.

The advantage of these sort of systems is that they would retain some controls over users, who might have to sit through a lecture on the health effects of their preferred drug, be continually monitored by a doctor, and so on. The system would also preserve some stigma for users, presumably discouraging demand.

Unfortunately, the very benefits of the system would also cause its biggest drawbacks. By placing users under the control of doctors, the system would degrade consumers. Such a process seems unfair—why pot smokers but not cigarette smokers? Also, the more stringent the system, the

more likely that an illicit market would continue. If addicts alone received drugs, there would still be widespread demand for black market supplies from those not designated as addicts. Moreover, some people would attempt to be recognized as addicts to become eligible to receive drugs; addiction would, in Kleiman's words, be "a legally privileged status."

The experience of Great Britain demonstrates the problems of this system. A small number of doctors with a special license may prescribe cocaine, dipipanone (a powerful narcotic), and heroin. They may also determine how the addict satisfies his habit—with oral doses of methadone, for instance, rather than injections. The stringency of the system, especially after the government tightened its rules in 1968, has sharply limited users' legal access to drugs. As a result, crime has increased as more users attempt to circumvent what they consider to be a humiliating rule.

The resulting black market is not nearly as severe as in the U.S., with far less crime, as well as fewer deaths from AIDS passed among intravenous drug users. However, only about 7,000 of an estimated 30,000 to 35,000 heroin addicts were purchasing drugs legally in 1985. Leaving a similar 80 percent of cocaine, crack, heroin, and marijuana users outside of the legal market in the U.S. would ensure the survival of a huge, violent criminal underground.

Even a system allowing almost anyone to use drugs but only at a clinic would not eliminate black market demand. Such a system, observes Nancy Lord, an attorney and doctor, would "not be attractive to addicts who use drugs in a home environment, with their choice of friends, music and food. The prospect of restricting their drug use to a clinical or governmental setting would probably be so unattractive to them that the demand for black market drugs would undoubtedly continue."

Finally, such a system would place an inappropriate burden on doctors. Many who view their job as healing the sick would be uncomfortable dispensing poten-

tially dangerous drugs, even to willing users. And throwing the drug problem into physicians' offices is probably not a good use of medical resources, especially given the current problem of providing Americans with affordable care.

Another form of legalization would be to sell drugs in government stores, as alcohol is sold in some states. When Prohibition was ended by the Twenty-First Amendment, the law did more than just return to the status quo. Instead, the Twenty-First Amendment both repealed the Eighteenth Amendment, which had made the manufacture, sale, and transportation of alcohol illegal, and gave states almost *carte blanche* over alcohol use within their borders.

Alcohol regulation across the country is a patchwork. Most states allow the sale of beer and wine in private stores, but some limit hard liquor sales to state "ABC" stores. Some give counties authority to ban sales by the drink in bars. The drinking age once varied by state, although federal pressure—including the threat to cut off highway funds—has prompted every state to increase the age to twenty-one. Alcohol is widely advertised, but state stores do not promote their wares in this way.

Thus, currently illicit drugs could be made available to adults in state stores. The government would merely be in charge of selling, not growing or making drugs, which could come from domestic or foreign sources. The latter markets would likely become legal once the U.S. stopped pressuring foreign nations to disrupt their societies by following Washington's prohibitionist policies. There would be no advertising (courts have ruled that government may place more restrictions on "commercial" speech than on other forms). Prices would reflect a component to help pay for the social cost of drug use.

Such an approach would be a vast improvement over prohibition, eliminating the black market and the vast profits made by criminal enterprises. A gray market serv-

ing the young would still exist, but such "leakage" would pose less of a problem than we have today. Because illegal sales would largely disappear, children would not likely be recruited as dealers of drugs. (No high school students wear beepers selling alcohol or cigarettes, despite the leakage in those markets.)

One problem of government-controlled distribution is that it might appear to give an official imprimatur to drug use. Opponents of legalization have long argued that eliminating the legal prohibition on drug use would appear to encourage drug use. Yet unenforceable legal prohibitions have had little apparent effect in shaping moral attitudes. Nevertheless, having the government provide and profit from sales may appear to sanction use. Indeed,

*Under a modified cigarette model, states would legalize the sale of illicit substances but ban advertising and sale to minors.*

Michael Gazzaniga, professor of neuroscience at Dartmouth Medical School, cautions against a plan that makes the government a pusher. "If the drug-treatment centers were dependent on income from the [government-run] Drugstore, the bureaucrats running the store might be tempted to increase profits."

Putting sales in the hands of a government monopoly would also eliminate the traditional benefits of competition for users. Prices would likely be higher, access more restricted, and service poorer in a government-controlled system. Of course, since even most advocates of legalization want to restrain use, just without resort to the criminal law, such inefficiency might be considered a benefit—unless it was so great as to make a black market a profitable option. Restraints on demand could, however, be better achieved by taxes on private sales.

It would also be easier to adjust the tax to ensure that no black market flourishes.

Another legalization option would be to allow the sale of drugs in private establishments, with some restrictions, such as a ban on sales to minors and the use of vending machines, as is done with cigarettes.

The most obvious benefit of following a "cigarette model" would be to eliminate the primary costs of prohibition: more than one million arrests annually, rampant crime, pervasive corruption, a violent criminal underground, and foreign terrorism. The substances sold would themselves be safer, since quality and quantity would be standardized, manufacturers would be liable for impurities, and information would be widely available about the health effects of different substances, at varying dosages and when used with other drugs. This approach would also be more appropriate for our form of free society, with a minimum of government control.

There are two major drawbacks to this approach. The first is that demand would probably increase to some degree. There are, however, reasons to believe that allowing the private sale of drugs would not turn the nation into a large crack house. For instance, we appear to have had no more opium addicts per capita when its use was legal than we have heroin addicts per capita today. Moreover, drug use responds to many factors, as does consumption of such substances as alcohol and tobacco, both of which have been falling even though they are cheap and legal.

In any case, the government could take steps to temper demand without being so draconian as to recreate a black market. Drugs could be taxed, generating revenue to help meet the cost imposed by drug users on society. Moreover, all advertising, including sponsorship of sporting events, could be banned, just as federal law currently forbids television advertising for cigarettes and distilled spirits. Moves currently underway at both the state and na-

tional levels would ban tobacco company sponsorship of athletic events and prohibit alcohol advertisements that suggest drinking a particular brand can improve one's social status. Georgette Bennett, a sociologist, has even proposed that drugs be sold generically, without any brand-name competition. (For similar reasons nationalization of the tobacco industry has been suggested.) Such a policy could be considered a variant of the government-stores approach.

The second major problem involves young people, who would undoubtedly get drugs, just as they are able to acquire cigarettes and liquor. No system would be foolproof; indeed, as of 1990, despite the expenditure of more than \$10 billion annually, the federal government has not been able to prevent 22.7 percent of kids between ages twelve and seventeen from having tried illicit substances. (It is noteworthy that this number, which peaked at an incredible 34.3 percent in 1979, started to slide before the Reagan administration inaugurated its intensified drug war.) However, this form of legalization would allow the remaining drug enforcement efforts to be directed at limiting the "gray market" for the young. Drug vending machines also could be outlawed (just as many localities are now moving to ban cigarette machines) and merchants made liable for significant penalties for selling to young people. The problem of older friends and strangers buying drugs for young people, the principal means of minors' access to alcohol today, would remain, although more adults would probably view drug sales to kids as "wrong," helping to restrict access.

Finally, the most drastic alternative would be to repeal the drug laws in their entirety, allowing unrestricted sales. All restrictions, other than tort liability for adulterated products, on currently illicit drugs could be lifted. Advocates of this position are in a minority, but include Ron Paul, formerly a Texas congressman. Drugs would be treated like

aspirin, with virtually no restrictions on sales. Use by children would probably, though not necessarily, be prohibited; five states do not bar cigarette sales to minors. People using drugs would be held legally responsible for their actions, as are drunk drivers today.

The main practical benefit of such an approach is that it would eliminate the evils of prohibition. The advantage of this system compared to more regulated regimes is that it would avoid the costs and inefficiencies of government control and would not encourage the existence of any black or perhaps even gray market. Finally, it would maximize individual freedom, an important consideration usually overlooked in drug policy debates.

Nevertheless, the costs of this strategy might be significant. Children would certainly have greater access to drugs, yet there is a substantial interest in protecting them until they are considered legally competent to decide whether to use dangerous substances. Moreover, drug use could increase, perhaps sharply, imposing costs on other members of society, such as increased health care for indigent users. Such a result is not inevitable. Cocaine use was legal in the nineteenth and early twentieth century, and there is no evidence of a crisis at that time. Nevertheless, given the risks posed by widespread use of drugs, it is reasonable to try to discourage drug use and to collect revenue from users to help defray the social costs they generate.

### *A Tentative Proposal*

Drug prohibition has failed. It is not just; imprisoning people for using a substance, even a harmful one, violates their basic rights unless their actions directly harm others. Yet most of the damage from drugs today results, not from their use, but from the ban on their use. Moreover, our reliance on criminal sanctions has not significantly reduced demand at an acceptable price, in terms of human freedom, deaths and crime, social disruption, and financial cost.

Since drug use is not harmless, however,

some restrictions are appropriate. Mark Kleiman argues, "Our central concern should thus be with classes of users for whom the damage done by the drug is disproportionately higher: the young, the poor, and the heaviest users, and with the illicit market whose corruption, crime, violence and criminal income cause widespread damage."

What, then, should a legal market look like? Use by adults should be legal; criminal penalties should apply only to those who sell to youngsters. The Drug Enforcement Agency should be disbanded, with enforcement entrusted to local police, since sale to minors (rather than production or smuggling) would be the primary drug crime. Public pressure, too, could be brought to bear on firms to combat juvenile drug use; in late 1990, for example, the tobacco industry finally announced a campaign to curb smoking by minors.

The federal government should prohibit advertising in any national or interstate medium and ban interstate sales by mail. All federal laws controlling distribution and sale should be repealed, however, leaving the issue up to the individual states. Thus, local and state governments could experiment with different systems.

Of particular interest should be a modified cigarette model. States would legalize the sale of all illicit substances, however damaging to the user. "While there are some drugs that we cringe at making legal," writes James Ostrowski, "these are the very drugs that the public would cringe at using if they were legalized."

Keeping these drugs illegal would merely increase the social costs associated with them. The only exception should be substances shown to cause a very high percentage of users to commit violent acts against others (perhaps PCP, for instance). The mere fact that users might be more likely to commit a crime—as are those who drink—would not be enough to warrant a ban. But users of legal drugs would be both civilly





and criminally liable for actions they commit while under the influence. Driving offenses, for instance, would be treated like standard cases of drunk driving.

Private firms would be allowed to sell formerly illicit drugs; but such establishments would have to be specially licensed and regulated to limit leakage to children. Moreover, use of vending machines would be prohibited. As Ethan Nadelmann has noted: "It is important to realize that legalization does not have to mean following in the same stupid footsteps traced by our alcohol and tobacco policies. We do not have to make potentially dangerous substances available in vending machines at seven cents a piece in packages of 20. Nor do we have to subsidize growers or provide the substances at subsidized rates to our military personnel."

Advertising might be banned; warnings would be included on packaging and health information made available in stores. State governments would also

prohibit public giveaways (a marketing ploy now used by some cigarette producers).

Manufacturers and sellers would bear normal tort liability for contaminated or mislabeled products, but users would assume the risk for using otherwise "safe" drugs. Developers of new drugs, however, might be held normally liable for any ill health effects of their products. The Food and Drug Administration could underwrite testing programs to measure the effects of different drugs, as well as determine what dosages are most safe. It would not be empowered to ban these sort of substances that it found to be

dangerous, however, since that would move us back to prohibition. Retail outlets might face liability for selling to intoxicated patrons (through the so-called "dram shop" laws now applicable to bars, for instance) and could be closed as public nuisances if they created unreasonable disturbances in a neighborhood.

States could levy a tax on drug sales to finance an advertising and educational campaign on the substances' dangers, fund health care and addiction treatment programs for indigent users, and provide social services for the families of users who are harmed (just as some families fall into poverty because of the actions of alcoholics or chronic gamblers). Special consideration should be given to the use of drugs by pregnant women. Perhaps sale to anyone who is obviously pregnant should be banned; perhaps putative mothers who use drugs (including alcohol and tobacco) should face charges of child abuse. At the extreme, pregnant women who use drugs could be jailed, as have a handful in the past

after positive drug tests. Such an extension of government control rests on questionable legal grounds as long as women are free to abort their pregnancies; moreover, such intrusive regulation is disturbing and difficult to enforce. But the consequences of drug use, like heavy alcohol consumption, during pregnancy do affect another human being who deserves protection by the state. Exactly what steps are appropriate requires further debate.

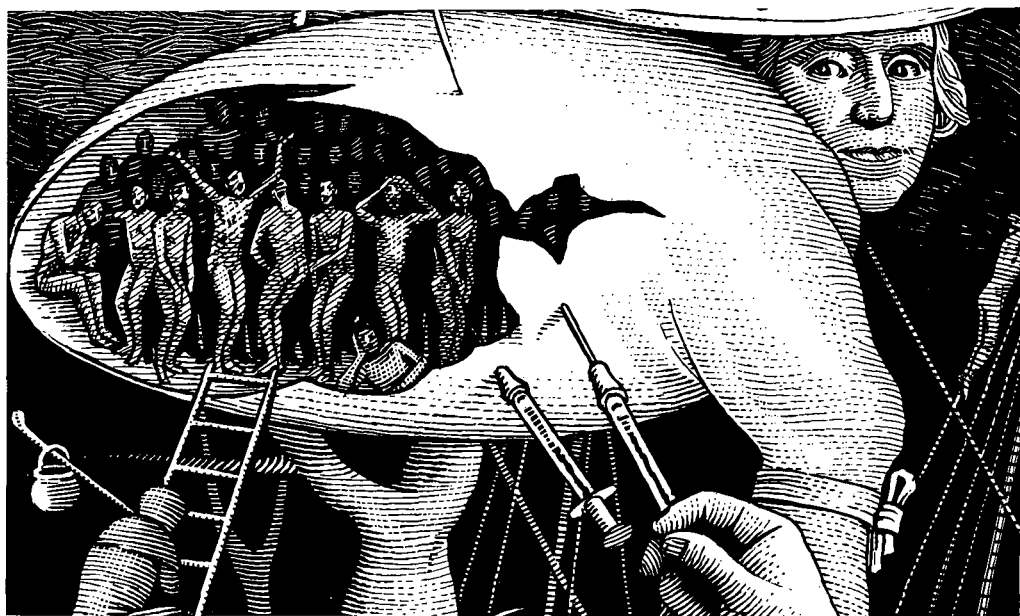
Finally, government officials should emphasize the role of the family, church, community, and business in restraining otherwise destructive behavior. Social pressure has helped reduce the appeal of alcohol and cigarettes; a growing majority of people support discouraging cigarette use in public places. Even illicit drug users respond to social pressure. For instance, Stephen Mugford found that cocaine users "limited their use, and did so because of the wider web of social ties into which they were embedded." Churches should speak to the more fundamental needs that cause people to seek solace in drugs. Private firms and public agencies, such as the Pentagon, could bar or limit drug use when it adversely affects productivity and safety. Government officials could also continue to use their "bully pulpit" to help harness various social forces to discourage irresponsible drug use after criminal sanctions were lifted. Indeed, it was just such pressure from Health and Human Services Secretary Louis Sullivan and other members of the black community that helped sink cigarette company plans to market new brands to blacks and women.

Overall, it is important to build a social ethic to discourage irresponsible behavior, whatever the drug involved. And that is only likely to come when people have choices. As Mark Kleiman has pointed out, coercion is hardly likely to improve anyone's power of self-control. Of course, legalization in itself would not promote self-control over destructive impulses. We need a concentrated effort by a whole range of social institutions to achieve that end.

Many advocates of continued prohibition do not even want to discuss legalization. James Jacobs argues, "Perhaps the most negative effect of [the legalization] debate is that it is diverting time, resources, and attention from the more pressing question of how to reform the war on drugs so as to reduce drug use more effectively, and to minimize social and economic costs while preserving civil liberties." Yet that is precisely what the argument over legalization is about—deciding whether another strategy would better restrain drug use at far less social cost. Whether drug prohibition works does not depend on the method of legalization.

Still, if policy makers move toward legalization, the kind of system to be established will become an important issue. Spelling out legalization in practice may help satisfy some critics. But, as Nadelmann writes, "It is, in the final analysis, unreasonable to expect all advocates of what has been called 'legalization' to unite on a single plan. Like the 'drug prohibitionists,' they are split among themselves on moral, ideological, and political questions and vary greatly with respect to both their reassessments of the costs and benefits of alternative policies and their recommendations of which policies should be implemented."

In the end, we need to treat drugs as "a category of grudgingly tolerated vices," as an opponent of full legalization, Mark Kleiman, puts it. A modified cigarette model appears to be the best intermediate position between prohibition and full legalization. In adopting this approach we would simultaneously recognize the importance of individual rights by allowing adults to use currently banned substances and the importance of protecting others from irresponsible behavior by imposing reasonable restrictions on use and holding users responsible for any harm they cause. Such a system would best maximize individual freedom while minimizing the social costs of drug use. ♦



# The Limits of Legalization

Elliott Currie

Like Doug Bandow, I am appalled and disheartened by the irrationality and inhumanity of the current war on drugs. Nevertheless, I remain unconvinced that the strategy he proposes is either good or feasible. James Jacobs is right: The debate over legalization is the wrong one; it diverts us from the many things we might do to reduce drug abuse and create a more sensible drug policy.

The crucial problem with the case for legalization is that the proponents understate the potential costs and overstate the potential benefits of ending the criminalization of hard-drug trafficking in America. (I won't discuss marijuana because it is not the issue on which Bandow and I really differ.) The most basic concern about legalizing the sale of hard drugs is that it would

## Hard Drugs, Hard Choices

*An Exchange on Legalization*

increase their availability and hence their consumption, thereby exacerbating the often devastating social costs of endemic drug abuse, especially among the most vulnerable and disadvantaged Americans.

Like many who call for legalizing hard drugs, Bandow tells us repeatedly, but without evidence, that most of the costs of the drug crisis are the result of prohibiting drugs, not of drug use itself. That view seems to me profoundly naive. We can adopt it only by ignoring the massive and

mounting evidence on the adverse effects of endemic abuse on the most stricken communities. These effects range from deaths and multiple health problems (including vastly increased risks of AIDS and other sexually transmitted diseases as well as fetal damage) to family disintegration, child neglect, and the loss of jobs, livelihoods, and homes. Equally devastating is the community demoralization borne of drug abuse that prevents the most disadvantaged communities in America from mobilizing to change their condition.

That the damage is sometimes exaggerated by fervent drug warriors does not make it any less real. If we take that harm seriously, we cannot avoid being deeply concerned about the destructive potential of increased hard-drug availability.

We care about an overall increase in hard-drug consumption because we know from the history of alcohol use that higher consumption raises social and public health costs. It is hard to see why similar results would not follow from increased consumption of many hard drugs, including crack, methamphetamine, and lesser ones like PCP—not to mention the virtually inevitable new “designer” drugs a legalized private corporate drug industry would develop.

Bandow cites recent declines in alcohol consumption to suggest that drug use need not rise after legalization. But this argument is a bit disingenuous, since alcohol consumption rose dramatically after its legalization and only began to decline in the early 1980s. While few critics would argue in favor of restoring Prohibition, no one should glibly assume that legalizing crack or crystal methamphetamine would leave their consumption unaffected.

Part of Bandow’s solution to that conundrum is a proposal to tax drug sales. But, as many critics have pointed out, the conundrum remains: If we impose a tax onerous enough to discourage consumption, we encourage a black market in cheaper drugs that would perpetuate the very social problems legalization seeks to eliminate. If

we tax drugs lightly, we do little to discourage consumption, especially for commodities such as crack that tend to produce the urge to buy repeatedly despite the cost in money, life, limb, and dignity.

Bandow suggests that we can also “temper” demand by restricting advertising. Certainly that is preferable to allowing crack advertisements in *Rolling Stone*, but research on alcohol suggests that advertising only marginally affects levels of consumption.

**B**andow’s inability to explain how we would avoid increased consumption is especially worrisome because higher consumption would almost certainly exacerbate the existing social stratification of the drug crisis, its concentration among the poor and near-poor. It is among these vulnerable groups that offsetting measures such as education and drug treatment are least effective, and where countervailing social pressures and positive opportunities are weakest. According to a study by Colin McCord and Howard Freeman in the *New England Journal of Medicine* in 1990, Harlem blacks were 283 times as likely to die of drug dependency as whites in the general population between 1979 and 1981—before the crack epidemic. Coupled with their inflated death rates from cirrhosis and alcoholism, their substance abuse was a main reason, along with cardiovascular disease and homicide, why life expectancy among black men in Harlem was lower than that of their counterparts in Bangladesh.

Bandow’s assurances about the potential of increased drug abuse by children and pregnant women are equally unconvincing. We could outlaw vending machine sales of drugs, but teenagers do not get alcohol from vending machines, and that has not prevented all too many kids from getting enough alcohol to destroy their lives and those of others. While acknowledging that under his “modified cigarette model” children could get adults to buy drugs for them, Bandow maintains that adults would



be unlikely to do so. But consider the real-world social context of crack use. There is already a large and desperate army of adult crack abusers. How many of them would we expect to resist buying rocks for kids in exchange for a few hits for themselves? Of course, we cannot quantify that effect, but Bandow offers us no reason to doubt it.

On the issue of drug abuse by pregnant women, Bandow's reassurances are even weaker. We might, he says, ban sales to "anyone who is obviously pregnant." Will we also ban sales to the husbands, lovers, friends, and assorted relatives of the "obviously pregnant"? If not, how do we keep pregnant women from obtaining their drugs? Maybe, Bandow suggests, we could lock up pregnant drug users for child abuse. But the idea of first deliberately increasing the availability of drugs to women at high risk of abuse and then locking them up for succumbing to drugs is both execrable public policy and morally—well, disturbing. Is Bandow suggesting that the threat of jail might have sufficient deterrent value to keep women's drug use low? An interesting possibility, since it implies that criminal sanctions can indeed deter drug abuse. In that case, his whole case against criminalization weakens considerably.

In short, Bandow fails to make a convincing case that legalization would not increase both the consumption of hard drugs and the resulting social costs.

The flip side of this underestimation of legalization's potential costs is an overestimation of its benefits. Like many other proponents of legalization, Bandow tends to exaggerate the *independent* contribution of criminalization to the destructive phenomena that surround the drug crisis, especially crime and the "sucking in" of young people to the illicit drug trade. Bandow apparently adopts the view that the crimes drug abusers commit are mainly or entirely caused by their need to buy drugs at inflated black market prices. But that is an oversimplification. We know that many addicts were involved in criminal activity well before they became addicted and that

high rates of both crime and addiction have deeply embedded social and cultural roots that will not disappear simply by supplying addicts with cheaper drugs.

The argument tends to confuse the effects of drug criminalization with those of social deprivation—or, more precisely, the interaction of drug criminalization with social deprivation and exclusion. The result is to overstate the contribution of criminalization itself to the magnitude of the drug crisis and correspondingly to overstate the

*Higher drug consumption  
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exacerbate the concentration  
of the drug crisis among the  
poor and near-poor.*

beneficial impact of legalization. A comparative example may highlight the fallacy.

Consider a country that is staunchly prohibitionist even on marijuana, yet without the extreme adverse consequences that advocates of legalization would predict. Its streets are not infested with Uzi-toting gang youth; its homicide rate hovers around a fifth of ours; it boasts a relatively small and in many ways declining drug problem, a substantial part of which involves amphetamine abuse; heroin use has stabilized, cocaine is a minor problem, crack is almost nonexistent, and youthful drug use is declining. There is an illicit drug market, but it is not filled with legions of young kids drawn to the inflated profits resulting from criminalization. The possession and sale of drugs are crimes, but the assumed consequences of criminalization are modest by our standards. That country is not a figment; it is called Sweden.

The lesson of the Swedish example is not that criminalization carries no costs, but that the magnitude of those costs—like those of legalization—depends on the social context. Sweden does not have legions of poor kids killing each other in the illegal



drug market because Sweden does not have legions of poor kids. And for similar reasons, the demand for hard drugs is not big enough to support legions of dealers.

The lesson from abroad is that there is an alternative, and more constructive, way to think about drug policy, which combines more realistic shifts in regulatory policy with far greater attention to the *causes* of drug abuse. The debate over legalization is diversionary because it tends to deflect our attention from both these goals. But pursuing both those aims simultaneously without legalizing hard drugs is precisely what has happened in some countries that have been far more successful than the United States in controlling their drug (and crime) problems, and I think we should learn from those real-world examples.

**T**he most promising strategy would borrow heavily from the Dutch with an admixture from the Swedes. (Contrary to some impressions, the Dutch do not legalize hard drugs; they pragmatically combine a *de facto* decriminalization of marijuana with tough enforcement against hard-drug trafficking.) To borrow a phrase from the Swedes, such a strategy is "solidaristic." Its first principle is the reduction of the demand for hard drugs through broader social policies that enable full social and economic participation, with a special concern for reducing deprivation, alienation, and exclusion of the young. To these policies it would add a compassionate but tough-minded approach to drug abusers. It would make every effort to assist them to reduce their abuse through improved treatment and, more important, the provision of serious help with other life problems. At the same time, it would also insist, as the Dutch and (especially) the Swedes do, on the responsibility of abusers to learn to take charge of their own lives.

A solidaristic drug policy would strive to minimize the social and personal harm

from hard-drug abuse through needle exchanges, better and more accessible health care for high-risk populations, and other "harm reduction" strategies. And it would make far less use of criminal sanctions for hard-drug users, while continuing to pursue traffickers. It would not legalize hard-drug sales on the grounds that the costs to social welfare, public health, and social solidarity are morally as well as practically unacceptable.

In the American context, that strategy will necessarily mean considerable spending on criminal justice in the foreseeable future. But we can allocate it more rationally by directing greater resources toward local law enforcement to help communities resist being inundated by dealers, rather than the more expensive alternative of incarcerating users; by placing most response to the use of hard drugs outside the criminal justice system; and by reducing our current mind-boggling and counterproductive sentences for the drug offenses we do prosecute to levels in line with those of more progressive countries.

Unlike legalization, this approach to our drug problem has a great deal of potential public support. Americans, according to the polls, do not like the idea of legalizing hard drugs. They do, however, approve of more preventive antidrug strategies. And they approve of a wide range of efforts to integrate all Americans more fully into a productive common life.

If we seriously want to tackle the drug problem, we will move beyond the rather stagnant debate on legalization to develop a credible, politically feasible, and compassionate drug policy with a smaller and more targeted role for the justice system. Above all, we will get on with the task of reducing the massive social deficits that have given us the worst hard-drug problem in the industrial world. If we neglect that task, we will continue to struggle unsuccessfully with our drug problem, whatever regulatory policy we adopt. ♦

## Letters

(continued from page 20)

Liberals can help the situation by including mental illness issues in their agenda for a just society, and in reforms at the federal level—in welfare, veterans, housing, health, and so on. They can join with professional caregivers and with families in the 900 chapters of the National Alliance for the Mentally Ill in political action on three fronts:

First, the national health care system now struggling to be born should allow the mentally ill to receive benefits equal to those of other sorts of sick people.

Second, in most states the state “mental health” system, consisting of residences, clinics, programs, and hospitals, is in need of revision and renourishment.

Third, also on the state level, the laws on involuntary commitment should be shifted from the dangerous-to-self-and-others standard toward need-for-treat-

ment provisions. Most mentally ill people including the homeless are withdrawn rather than violent. Their suffering is deepened and prolonged when these laws deny them treatment.

Martha Redfield Koch  
Atlanta, GA

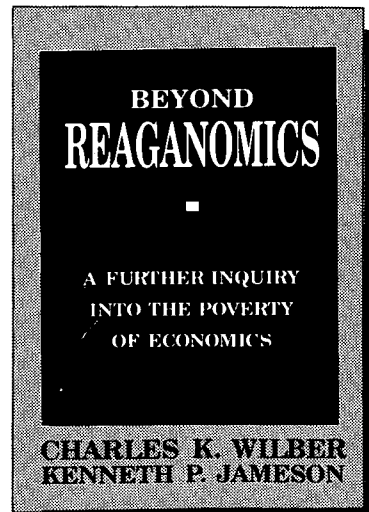
### David Rothman replies:

I wish I could be as confident as Ms. Koch that efforts to reinstitutionalize the mentally ill are out of date and unreal. My own sense is that they are far more significant than she believes. I am even more puzzled by her claim that I am dismissive of efforts to provide the homeless with decent housing in the community. To the contrary, I think this is the route that policy should follow, but the barriers to it are enormous. Finally, Ms. Koch should rethink her readiness to promote relaxed provisions for involuntary commitment—all too often, coercion is a substitute for quality.

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### *Liberal Linkages*

To the Editors:

Repudiating liberalism's historical and intellectual ties to socialism and Deweyan progressivism may make good political sense in today's reactionary climate: however, as intellectual history or political philosophy it stinks. I have doubts about Paul Starr's claim that socialism has been tried and refuted by experience, but it's his—and Stephen Holmes's—claims about the relation between socialism and liberalism (*TAP*, Fall 1991) that I find disturbing enough to warrant a letter....

Liberalism (historically) begins as an attempt to keep the peace between competing religious factions and develops into principled resistance against arbitrary, external control of individuals—particularly by the absolutist state. Socialism shows up as a response to the same problem in another context: resisting the arbitrary, external control of individuals via the concentration of economic power. James Madison foresaw such a possibility clearly. He revolutionized democratic theory by insisting that stable democracies require not homogeneity and coordinated power, but heterogeneity and dispersed (competing) power—including, most importantly, dispersed economic power. The fundamental tension between socialism and liberalism is practical not philosophical. Liberals are, rightly (I believe), skeptical that you can solve the very real problem socialists are pointing to by just giving the state control over the means of production. After all, this would (in the absence of very sophisticated democratic controls that no one seems to know quite how to design) tend to make power even more concentrated not less. Hence, Dewey's compromise.

We need markets, progressives think, but we need democratic control of these. Holmes and Starr both seem to recognize this; Starr most explicitly: "Markets do not exist in nature; they are institutions that have a design based first of all in law.

The realistic democratic alternative to socialist planning lies primarily in the design of markets and other institutions..." But Starr seems not to recognize that this is just Dewey's point: Don't take markets as a natural or social *given*, see them (as they are) as created human instruments designed (more or less well) to serve particular ends, in need of intelligent scrutiny and subject to democratic modification. And isn't this perilously close to socialism as Starr defines it? After all, it challenges our ordinary ways of making the "private ownership/public ownership" distinction in "the sphere of production," and forces us to shift the balance between "the market as the principal mechanism for allocating investment" and greater "public control."...

What really bothers Starr and Holmes about the undeniable links between liberalism and socialism, I think, is a nasty little truth liberals have been trying to forget for far too long now. Greater social and economic equality may not be liberalism's goal, nor something (in any case) to be valued for its own sake, but (nonetheless) without a vast reduction in current inequalities liberal ideals will never be realized in practice. Liberals were trying to forget this even in the sixties—too often programs to establish social justice were portrayed as acts of social charity—and today Democrats tend to accept the label "special interests" for groups (women, blacks, gays) whose only interest is social justice.

If American liberals and the Democratic Party want to really change America again, then they are going to have to change the way people 'round here think. Too stark a contrast between liberal ideals and progressive ones will only leave liberals looking not like a genuine intellectual, social, and moral alternative but like...well, the way they look now: like soft-headed or weak-kneed conservatives.

Tim Sommers  
Providence, RI

## Can Democracy Save Chicago's Schools?

*David Moberg*

**T**he breaking point for parents of Chicago's schoolchildren finally came in the fall of 1987: For the ninth time in less than two decades public school teachers were out on strike. The years of financial game-playing, continued crisis, and, most of all, educational decline had taken their toll.

Reformers had for several years chronicled the failures of the city's schools and the follies of the system's central bureaucracy, which had grown dramatically even as school enrollment, teaching staff, and real teaching time declined. Business leaders had long grumbled that the graduates of the public schools were grossly unqualified. Blacks had long denounced both the system's deliberate segregation and white politicians' attempt to retain control of the system, even though only 12 percent of students were white. But many black parents discovered in the 1980s that the system was still rotten, even with black superintendents and a predominantly black staff.

The public anger and frustration, as well as scholarly research, all pointed toward the central bureaucracy as the heart of the problem. During the year following the strike, an unusual coalition of educational reformers, the business establishment, and white, black, and Hispanic community organizations successfully pushed for state legislation. The new law radically decentralized power to the local school level, giving parents and community representatives primary responsibility to hire and fire principals, set budgets, and approve school plans. Coming at the close of

a decade of reports on the failings of American education, Chicago's school reform was one of the most dramatic and ambitious responses.

**T**he stakes are high for the nation's third-largest public school system and for national education policy. President Bush has focused on a free-market model of parental school "choice," an ambiguously defined option with increasing political appeal. By contrast, Chicago's reform emphasizes democratic "voice" as the route to effective schools. It hypothesizes that local control will create more effective, responsive, and innovative schools.

The Chicago plan, however, does not preclude parental choice. The city continues to offer its pre-reform array of magnet schools and optional enrollment programs, which, according to critics, help only a privileged few. The new state law mandates the eventual creation of more programs involving parental choice, but Chicago education reformers reject the free-market model and hope to place new options for choice within a framework of popular democratic institutions.

There are strong political and educational reasons for favoring the popular democracy framework over the marketplace, but if Chicago's bold experiment fails for lack of support, the drumbeat for the free-market model will surely grow louder. Unfortunately, these new laboratories of local educational democracy have been hobbled by inadequate external political and financial support from the outset.



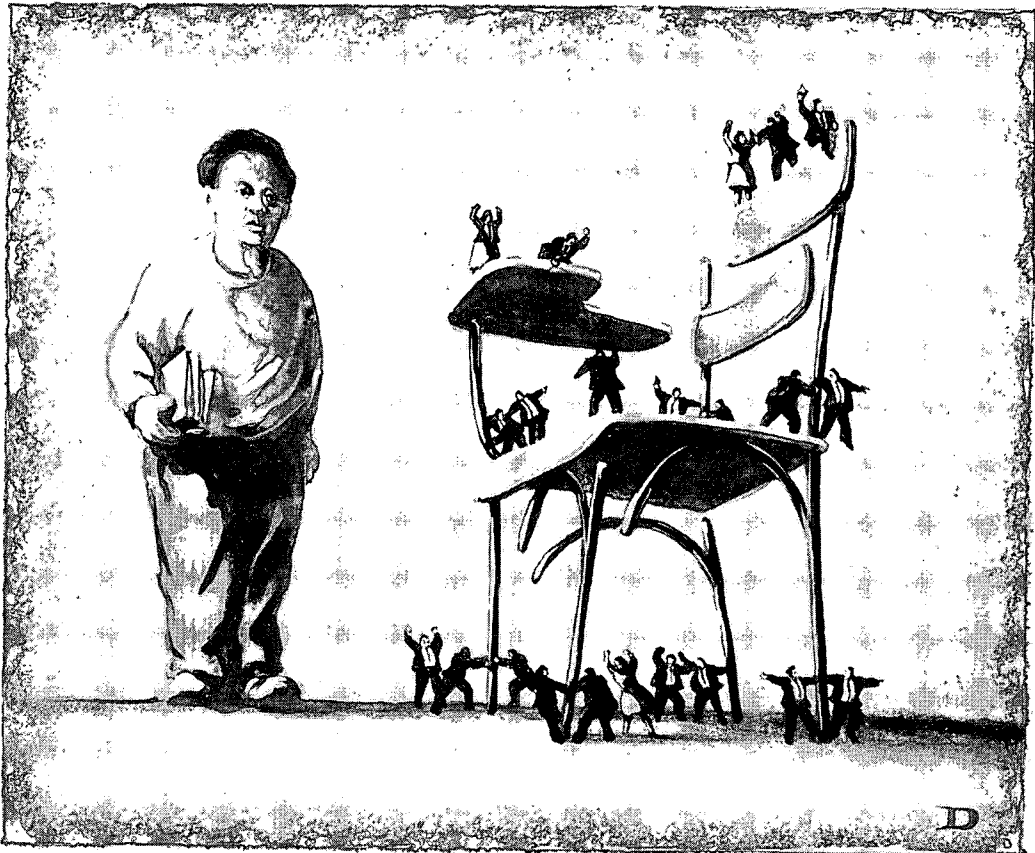
### *Starting Small*

For two years, Chicago's local school councils have been grappling with their new responsibilities, overseeing the education of roughly 400,000 students in 610 schools. They have created programs to restore discipline, fight gangs, and generate school spirit—ranging from enforcing tough ultimatums on gang members and drop-outs to requiring school uniforms. They have fixed up school buildings, improved libraries, added computers, beefed up arts programs, and initiated new curricula from environmental studies to African-American history.

Many schools added teacher aides or teachers, and a few have either decided to expand their facilities, start a new school, or relieve overcrowding by shifting to a year-

round schedule. In some instances, there are new channels of communication and cooperation among neighborhood schools or among teachers and sub-units within schools that had been isolated before, reporting only to superiors. New principals were hired in 38 percent of the schools, and a few dozen of the system's schools have contracted with distinguished outside experts to develop curricula or to revamp the entire school.

Despite an auspicious start, however, Chicago's school reform is far from a clear-cut success. The roles of parents, principals, teachers, and bureaucrats are still unclear. Many factions with disparate agendas are waiting for reform to fail, and no strong leadership figures in politics or the schools are pushing for its success. State and local politicians have been unwilling to commit





the money needed to put flesh on the bones of reform. The central bureaucracy continues to fight to retain control and to waste scarce dollars; by design or inertia, its actions sabotage reform.

Few local school councils (LSCs) have so far initiated any far-reaching educational reforms. There has been little effort to involve teachers or give them the necessary retraining, and the teachers union remains an ambivalent participant in reform. If these obstacles persist, the tentative blossoming of hope and enthusiasm among parents and the reform-minded minority within the system may soon wither into cynicism and withdrawal.

**Y**et the new law has begun to effect change. Chicago reform is predicated on the idea that there is no one best system for all schools. And the responses so far are diverse:

- At Dumas Elementary School in a poor black neighborhood, the LSC has supported principal Sylvia Peters's ambition to begin offering high school courses for students who want to continue with the Dumas program's focus on the arts, African-American culture, and development of character and moral values. But Dumas parents remain divided over the LSC decision to encourage school uniforms, and teachers remain divided over the best educational strategy for teaching reading.
- At Amundsen High School, a United Nations of ethnicities with a big gang problem, the LSC picked a new principal, banned all gang symbols, and set new standards: roughly one-fourth of the students who had been failing were told that they could return only if they earned summer school credit, then came with their parents in the fall and signed a performance contract. The school also cracked down on truancy.
- At Whitney Young High School, a respected magnet school, the LSC decided to focus attention on black and Hispanic males in danger of "dropping out spiritually," providing special counselors who would link the kids with individual mentors.
- In the Mexican-American Little Village neighborhood, seven of the ten local schools have begun working as a "cluster" to provide special programs and educate parents on weekends. There were some divisive battles, including the charge that a white principal was replaced by a Hispanic for ethnic reasons. Also, neighborhood residents hailed one school's decision to relieve overcrowding by physically expanding but the decision also reflected the unwillingness of Hispanics to send their children to underused, largely black schools not far away.
- At the Michele Clark Middle School in a west-side African-American neighborhood the LSC bought computers for a new writing program it initiated (at the suggestion of a teacher), established a new program for teaching algebra, encouraged more African-American emphasis in the curriculum, and tried to bring in Whittle Communications' controversial school-oriented television Channel One (but the superintendent vetoed it). Yet parental participation has largely dwindled to those on the LSC since the excitement of choosing a principal passed.

There also are signs that more substantial educational innovation may be underway soon. For example, a group of high schools has joined Brown University Professor Theodore Sizer's Coalition of Essential Schools, which encourages teacher collegiality and an individualized approach to students. James Comer, a professor of psychiatry at Yale University's School of Medicine and a faculty member of Yale's Child Study Center, will work with a half-

dozen schools to create the supportive atmosphere and cooperative relations among teachers and parents that have transformed other schools. Former civil rights leader Bob Moses has already brought to several schools his Algebra Project, which teaches algebraic concepts through experiences of daily life.

This diversity of advice on innovation is new. There had been limited experiments in school autonomy and decision-making prior to the 1988 reform law, but central administrators nevertheless had dominated technical support.

### *The One Worst System?*

Chicago's school crisis had been brewing for decades before then-Secretary of Education William Bennett, in an overstatement made in the aftermath of the 1987 school strike, declared the city's schools the "worst in America." Under the two-decade rule of the late Mayor Richard J. Daley, Chicago had deliberately maintained a highly segregated system. As whites fled to the suburbs and many remaining white families sent children to the large Catholic school system, citizen support for the public schools diminished. Daley tried to buy labor peace with the school system's unions through financial sleight-of-hand that, after his death, resulted in full-scale crisis in 1979.

Over the years, blacks fought for more control of a system that by 1990 had a student population that was 58 percent black (plus 27 percent Hispanic, 3 percent Asian and other nonwhites). For the past decade the superintendents, board chairs, and a slim majority of the staff have been black.

Yet, as several reform groups documented throughout the 1980s, the school system's performance was bad and getting worse. The central bureaucracy was not just a terrible drain on resources; perhaps even worse, to justify their existence, administrators attempted to regulate more closely nearly every aspect of teaching and school life. Principals and teachers alike were oriented more toward demands of their su-

periors, less to the needs of students, the wishes of the parents and community, or their own professional judgment. The bureaucracy imposed a disastrous reading skills program that subverted the joy of reading through mind-numbing regimentation designed to be "teacher-proof."

The system especially failed its poor, black, and Hispanic students. The central bureaucracy diverted more than one-third of state compensatory aid for schools with poor children to support its own operations. In a vicious circle of incompetence, Chicago schools overwhelmingly drew their teachers from two of the worst state universities, which enrolled mainly ill-prepared Chicago students.

The result was not surprising. From 43 to 57 percent of entering high school students failed to graduate, according to studies by the Chicago Panel on Public School Policy and Finances and by Designs for Change, another advocacy group. But a few schools performed fairly well. Those schools were mainly in white neighborhoods or were magnet schools designed to provide a modicum of integration and refuge for middle-class families.

Overwhelmingly, the best minority students were siphoned off to magnet schools, and white middle-class parents connived and lobbied to get these better schools to accept their children. The vast majority of the system was allowed—perhaps even expected—to fail. But as Designs for Change researchers Donald Moore and Suzanne Davenport argued, this "new, improved sorting machine" gave the appearance of greater fairness while perpetuating or worsening the traditional inequities.

At present, more than half of Chicago's high school students and a quarter of the elementary students attend schools outside their residential districts, under a wide variety of pre-reform programs including magnet schools. But when it comes to admission to the better magnet schools, the real choices are made by the principals, from a huge pool of applicants. For the remainder, choice is a grim illusion: one bad

school or another. As a result, less than one-third of those students who do not drop out read at twelfth-grade level when they graduate.

In response to the crescendo of discontent, Mayor Harold Washington, the city's first black mayor, convened an "education summit" in 1986 to persuade businesses to guarantee jobs to public school graduates if they met performance standards.

According to Mary O'Connell's *School Reform Chicago Style: How Citizens Organized to Change Public Policy*, school Superintendent Manford Byrd rejected the proposal from the education summit, saying, "We've got an excellent system; if you give us New Trier [a wealthy suburban school district] students, we'll have good outcomes." Byrd's "blame the victim" mentality pervaded the system, legitimized by research such as the 1966 report *Equality of Educational Opportunity* by James Coleman and colleagues, which showed the primary determinant of school success was family socioeconomic status.

Yet in the wake of the Coleman report, educational researchers across the country had found or created schools that made a difference in poor communities. For example, Comer has helped create such effective schools in New Haven and other cities. These schools share certain distinguishing features: Principals are educational leaders; parents are involved; staff believe that students can learn; time is primarily spent on "interactive" learning, especially reading; and there are consistent efforts to maintain an orderly, attractive atmosphere and to discourage drop-outs and truancy. Comer, in particular, stresses development of a nurturing, supportive atmosphere that integrates the parents into school life.

### *Black Doubts*

But Mayor Washington, bogged down in battles with his old Democratic machine enemies, was reluctant to devote much effort to a school system that he at best in-

directly influenced. He was also reticent to disturb the status quo since the public school system provided the economic base of a large proportion of the city's black middle class, who had been his political supporters.

The major black community and civil rights groups were often actively hostile to what they called educational "deform." Many blacks also saw the reform effort as a threat to black control of a major urban institution. And middle-class black educators had doubts that poor parents of any sort were capable of running the schools.

Even black advocates of reform were suspicious about some of their allies such as white bankers and executives or Hispanic and white community groups that had clashed with blacks on other issues. And some blacks were wary of reformers who criticized the local teachers union, led by a black woman, for the union's resistance to parental involvement in running the schools.

Jesse Jackson lobbied forcefully against reform and continued afterwards to fight its implementation, battling, for example, to save the job of his old protege, Manford Byrd. The black middle class, many of whom were school employees, was the political and financial base for Jackson's Operation PUSH, despite his vocal advocacy of the disenfranchised poor. When PUSH came to the shove of disgruntled black parents, Jackson's organization sided with the black administrators, above all, and the teachers.

The nineteen-day teachers strike in 1987 provoked such a grass-roots outpouring of anger and dissatisfaction that the mayor reactivated the education summit and brought in a new group of community and parent organizations. Few of the existing parent-teacher associations or local school improvement councils, weak bodies devised under previous reform legislation, were involved in the reform debate.

Washington had been strong enough politically to risk confronting an important group of supporters. His successor in the

mayor's office, Eugene Sawyer, who took office upon Washington's death in 1987, was politically weak, more attuned to machine-style patronage politics, and more dependent on the black middle class. Sawyer saw the battle over reform as about "contracts and jobs," which he feared blacks would lose.

### *State Action*

After cliffhanger votes and veto battles, the school reform law passed the state legislature in 1988, effective in the fall of 1989. The final bill vested power to hire and fire the principal, make local budgets, and design school improvement plans in the ten elected members of the local school council, including six parents elected by parents, two community residents elected by the community, and two teachers elected by the staff.

The principal received new authority to hire staff without regard to union seniority and to remove unqualified teachers more speedily. The principal in theory also gained power over administration of the local school (although both school engineers and lunchroom personnel continued to assert their independence). Teachers were expected to form a Professional Personnel Advisory Committee to advise the principal and LSC.

The reform plan decentralized responsibility much more drastically than had New York City's earlier, troubled experiment with district school boards, and it gave more power to parents, less to professionals, than school reform had done in other cities such as Rochester, New York. (Although a few school systems, such as those in Miami, Florida, and Hammond, Indiana, adopted "school based management" before Chicago, their reforms were too new to provide much conclusive evidence on what worked.)

The law also placed a cap on administrative expenditures by the central board and mandated that the so-called state Chapter I funds for low-income students be distributed to the schools, not appropriated by

the central office. Thus the reform reallocated about \$40 million of a \$2.3 billion budget to local schools to spend as they saw fit in the first year of reform, with about \$53 million additional in each of the four succeeding years. In the first year of reform the average elementary school had about \$90,000 to budget as it wished. The School Finance Authority, which had been established in the 1979 fiscal crisis, assumed oversight authority, and the system was mandated to prepare improved school choice options.

When the state legislature passed the Chicago school reform law, it provided no new money to implement the reforms or any innovations that might flow from local school council initiatives. Despite its constitutional responsibility to finance the majority of school costs, the state share of education expenditures has actually dropped from 48 percent in 1976 to 40 percent today. Legislators temporarily raised income taxes in 1989 (then made the hike permanent in 1991), but that simply slowed the steady relative decline in state funding. From the outset, reform was a financial orphan.

### *The Limits of Change*

While it provided for considerable decentralization of power in the Chicago school system, the 1988 reform law by no means overturned the status quo. Almost from the start it was apparent that the local school councils could exercise their new powers only within a very circumscribed universe. The central board and administration retained the power to negotiate contracts with the unions and to make many fundamental overall budgetary decisions. The mayor, with approval of the city council, retained the power to appoint the school board, which in turn hired the superintendent. The state legislature controlled nearly half the purse strings.

And the councils faced other impediments; the mechanics of implementing the reform plan itself were daunting. The decentralization meant conducting more than 600 local school council elections and

providing a crash course in the intricacies of budgeting and evaluating the school's principal to the newly elected council members—many of whom were poor and ill-educated, some of whom could not speak English (one successful council mixed poor blacks and non-English speaking Chinese). Many newly elected councils soon faced the difficult task of evaluating the school's principal, often seeking out and evaluating candidates for the job.

Nevertheless, at the most basic level, the system worked: Nearly all the schools met their deadlines for local budgets and school plans, which were often delivered with little notice and less help. There were bitter fights in a few schools and councils, especially over replacement of principals. Charges of racial discrimination in a few councils stirred waves of paranoia, but such problems were not widespread.

In a study of a dozen local school councils, the Chicago Panel on Public School Policy and Finances found neither a model of dynamic grass-roots revolution nor a dis-

schools—less than 5 percent of the total—have undertaken significant restructuring.

While Chicago's school reform law focused on school governance, there is a large leap from either citizen control or decentralization to making schools work better. "By itself local school management does not generate better schools," argues John Kotsakis, assistant to the president of the local teachers union. "Are we doing something that changes the way kids are engaged in the learning process? Clearly in most cases, we're not." Beyond restructuring governance, Kotsakis argues, the schools must now restructure school time and space, breaking down the traditional isolation of teachers and fragmentation of the day.

Yet parents often know more about what they want out of schools than how to get it. "Nobody looked at [reform] in terms of the vehicle that we need to increase student achievement," Slay said. "We knew councils were critical, but I don't think we understood how big an adult education program we were undertaking."

Teachers as well as parents needed training to carry out the reform's objectives, although no training programs were mandated by the reform legislation. Teachers now appear less fearful of reform and more involved than at the outset, but neither the Professional Personnel Advisory Committees nor the union have yet played an important role. The teachers union has argued for an outside academy that generates educational ideas, but reformers suspicious of the union blocked earlier teacher-training proposals under union control. Yet many reformers would agree with Kotzakis's argument that school reform can succeed only if teachers are better trained and work more collegially with principals who do not insist on being authoritarian.

"One of the key holes in reform is: What's the incentive for teachers to change what they're doing in the classroom?" argues Anthony Bryk, a professor of education at the University of Chicago. Many teachers, veterans of decades in the schools, have grown cynical with the twists and

*While providing for decentralization of power in the Chicago school system, the reform law by no means overturned the status quo.*

aster. Only three out of fourteen school councils queried in another Chicago Panel survey have made important changes that might affect education, such as team teaching or encouraging cooperative learning among students. Three others did very little, and the remainder made modest first steps.

But the overall conclusion from central administrators, local reformers, and outside observers is, according to Chicago Panel Director G. Alfred Hess, Jr., "that the new ideas aren't very creative in a lot of places." Joan Jeter Slay, a former school board member and a leader of Designs for Change, concluded that at best twenty-five



turns of policies and suspect that the central bureaucracy will ultimately regain control.

At its most successful, reform has given local school councils a chance to get rid of incompetent or unresponsive principals and to make all principals accountable to local school government, not the bureaucracy. At times councils initiate ideas, but more often they express concerns and offer support to principals who are trying to make changes. Some councils, however, have been bogged down in conflict, unable to forge a consensus.

Some reformers now think that the central office, apart from a few functions like administering the payroll, should become a service center, offering program support or even maintenance services in competition with independent suppliers. They are not likely to receive support toward that goal from the central administration, however.

Reform *has* diminished the size of the bureaucracy—at least 550 positions have been cut out of a central bureaucracy of about 4,100—but top administrators have done everything they could to save themselves. Although district offices were cut heavily, the central office remained protected; cuts disproportionately targeted clerical and lunchroom workers rather than upper-level bureaucrats, whose jobs were often simply shuffled around.

The central bureaucracy has not only failed to encourage reform but frequently obstructed it. "Pershing Road"—the site of the huge central office—has imposed arbitrary and abrupt deadlines, shifted paperwork burdens to the local school councils, and provided inadequate and confusing information.

"One of the tragedies of school reform is the utter lack of leadership at the center," Hess argues. Richard M. Daley (son of the late Richard J. Daley) made support for the new school reform a central plank in his successful 1989 mayoral campaign, but his record has been mixed since he took office. His interim school board picked a superintendent, Ted Kimbrough, who demon-

strated no enthusiasm for reform and has tried to recentralize power. The board also negotiated teacher contracts that were far beyond projected school revenues, but did guarantee labor peace for Daley's 1991 reelection. Shortly after the election, the board announced a deficit of \$315 million out of a \$2.3 billion budget for the next fiscal year.

### *Another Crisis*

The latest budget crisis in the summer and fall of 1991 has had both economic and political dimensions. In comparison with other big cities as well as many suburban districts, Chicago's school funding is below average; the state contributes less than it should, and local property-tax rates for schools are the third-lowest in the metropolitan area, according to Hess.

The school system's financial problem is only partly waste and misallocation of money; the schools are also simply and seriously underfunded. Although many studies show no statistical connection between spending more on education and getting improved results, that does not mean spending is never justified. Paying teachers more may be necessary just to maintain the teacher corps. Also, group merit bonuses for teachers in schools that make significant progress or dramatic reductions in class size could bring significant improvement.

Reformers, for their part, hoped to use the 1991 fiscal crisis as a lever to increase the amount of time teachers actually spend with students each day and to reduce the bureaucracy further. For example, the school board had the option of saving \$40 million if it cut another 800 positions from the central office, Hess argued. But, while some of the board's initiatives were blocked or deflected, the reformers were unable to mount a sufficiently forceful campaign to shape the budget.

The future of the reform effort has already been threatened by the budget crisis. Daley used the fiscal squeeze as the occasion to raise the threat of education vouchers, which would be appealing to his

loyal constituents with children in parochial schools. The mayor resisted finding new local property or state tax money for the schools. And the state legislature, in its 1991 budget, effectively left Chicago schools in a slowly tightening fiscal noose.

In his Fiscal Year 1992 budget, Superintendent of Schools Kimbrough trimmed

*Decentralization requires strong champions and guarantors of financial support at the center.*

back the central office by only slightly more than 200. But more than 1,200 teachers were cut, school supplies and equipment were slashed by 90 percent, and many special programs for children who are poor or at risk of dropping out were eliminated. The superintendent closed thirteen schools, including several that were deemed successful, even though the move saved less than \$2 million.

Although schools opened in the fall of 1991, many were in chaos for weeks. In November, a teachers contract was finally ratified. The final deal gives teachers a small pay increase this year and will result in immediate school closings. Reformers, who wanted cuts in the bureaucracy rather than school closings, warned that the financial crisis will return with greater force next fall.

The fiscal crisis and cuts have undermined both the spirit and substance of reform. "We've had a couple of years to create a sense of efficacy [on the councils]," Bryk argued. "Now there's tremendous centralization of decision-making that has pervasive effects. You're trying to convince people they have power and then telling them they have no power. That could be terribly destructive to reform."

During the second round of local school council elections in the fall of 1991, both the number of candidates and the voter turnout dropped

by nearly half from the initial elections, but there were reasonably full and contested slates nearly everywhere. The fall-off may reflect reduced local controversy and the early routinization of local school politics as much as any disillusionment with reform, but the failure of Kimbrough or Daley to push participation also hurt.

The success of reform will depend as much on the creation of a constructive local political culture as on the mechanics established in reform legislation. Historically, locally controlled schools have ranged from models of democracy to models of parochialism and patronage. To succeed, Chicago will have to buck its own traditions of patronage politics.

There are some checks against abuse. The School Finance Authority has oversight powers, but more important, school reform and community groups have helped keep reform on course. Not only have most councils remained independent of their aldermen and other political forces, but some school council leaders have become new political challengers. Education has become a more openly debated political issue and a much larger constituency is learning about the issues at stake.

### *Paradoxes of Decentralization*

In a still limited way, school reform is a social movement. While reform now has far greater black popular support than when it was proposed, the movement still relies most heavily on the groups and individuals that fought for it initially. No one has organized the members of the local school councils into a coherent, potent voice in defense of their own interests.

The centralized bureaucracy clearly contributed mightily to the deterioration of Chicago schools. But decentralization alone will not be the answer. Local control would work best, ironically, if there were central leaders who were strong champions of local school councils and guarantors of both financial and technical support. Decentralized institutions need nurturing and protection by such leaders, but few leaders

are willing to help without gaining influence or control. Yet without outside support—money, encouragement, professional assistance, and more—the local school councils by themselves seem unlikely to lead to the dramatic educational innovation the schools need.

The formal governmental mechanisms of school reform may be necessary but not sufficient. To flourish, the schools require creation of a degree of consensus among teachers, parents, students, and principal. If the teachers union must become more flexible and as concerned about the quality of education as the contracts of its members, it is also true that reformers and councils must respect the union rights, professional responsibilities, and need for reasonable job security of the teachers. Chicago has reached temporary accommodation but no profound resolution of these issues.

In some cases, members of local school councils may bring ideas that improve their schools. But in most instances, school reform will work—if it does at all—because the councils hire strong, innovative principals who are accountable to the parents, community, and teachers. Under the old system, principals thrived or survived by pleasing their superiors in the central administration, which had little interest in giving them autonomy. But effective principals will also share power and responsibility with teachers and parents, just as an effective superintendent in this new system will encourage the autonomy of individual schools.

If all goes well in the next five to ten years, differences in quality among the schools may decline as the overall performance rises, while the differences among individual school's educational programs and philosophies may grow. At that point, introducing more choice will be logical and necessary. Most Chicago reformers do not want a system where the principals exercise more control over school placement than do the parents. One alternative might be the use of a lottery to select among a pool of applicants for limited space in a popular

school. "We will not get to choice as a vehicle for change," Hess argues. "We will get change, and that will result in greater choice." But politicians may opt for a voucher or free-market choice system if improvements do not come quickly.

### *Choice Possibilities*

In response to failing institutions, social scientist Albert O. Hirschman has argued, people may choose to exit or to use their voices to bring change. Advocates of *laissez-faire* choice, such as Brookings Institution researchers John Chubb and Terry Moe, argue that the market offers the only alternative to stultifying bureaucracy. If parents do not like public schools, they say, they should be able to exit and go to private schools at public expense.

Providing education, however, is not like marketing pizza or laundry soap. Schooling is a central element in determining the character of society; consciously or not, it inculcates values in succeeding generations of citizens. If the failures of the schools lead to such a politics of distrust that government is abandoned, yet another mechanism for creating a sense of community and common social goals will be lost.

Ironically, despite our society's inequitable and inadequate support for education, education carries an especially heavy burden in American culture: It is the key to "equality of opportunity," the surrogate for social equality. It is also the glib solution offered for all social ills—unemployment, drug abuse, crime, trade deficits, and so on—many of which are at least exacerbated by the workings of the free market. It is asking too much of education to expect it to redress all these inequities and social woes, but education is an important potential counterweight to the market. Even marketplace choice advocates acknowledge that education is different: The public still foots all or much of the bill under their proposals.

The marketplace model is no more likely to produce effective innovation than the

democratic reform strategy, and it is more likely to produce inequalities. Indeed, the limited marketplace choice in education through the housing market that differentiates suburban and big city schools already contributes heavily to existing inequalities. And there is no assurance that the free market will produce high-quality education: Does the performance of the market in producing children's toys or television programming (or the swindles in private trade and technical schools) justify turning education over to private enterprise?

Privatized, free-market education would not necessarily remain the domain of small educational entrepreneurs. Many corporations have central bureaucracies that are as stifling to innovation and worker initiative as any big school board. Would a General Education, Inc. assuredly be any different from General Motors?

The accountability offered through local school councils has some effects similar to a voucher system, signalling the principal and teachers what the parents want out of the school. Also, the variation that inevitably will develop with local control can lead to more meaningful choice as that option is expanded. In many cases, where the local community school proves to be satisfactory and responsive, it will also mean that such choice is unnecessary.

**T**he most compelling argument for education choice is not the economic market analogy but rather the observation made by Deborah Meier, a pioneer advocate of alternative schools and choice in New York's East Harlem school district. Because children are very different in how they learn, even if they all can learn, and because there is no one correct way to become educated, Meier argues, choice of different types of schooling can and should be part of any public system.

If the system is sufficiently democratic,

the public's voice can help shape the system as well as each school. There is a value, if we want a democratic society, in having educational institutions that recognize broader responsibilities than their own profit and loss. There is also value, both educationally and politically, in involving parents and communities as much as possible in the schooling of society's next generation.

In small communities with adequate resources, community school boards already often work well. They are rarely models of active participatory democracy, but they do provide for local accountability. With the centralization of power in large bureaucracies in the big cities, that accountability was lost.

Chicago school reformers are still betting that the new wave of democracy can topple the bureaucratic castle on Pershing Road and provide some of that lost accountability for local schools. As progress is made, politicians may be more willing to provide the schools the money they need, but such prospects now look bleak. Without political and financial support, including a champion of decentralized power at the helm of the school system, the local school councils will never get a fair test.

If a cooperative political and educational culture emerges around the schools, there should be more innovation and meaningful educational alternatives. The decentralized democratic strategy provides only a framework for change, an alternative to both the current bureaucracy and the free market. It offers many of the virtues claimed for the market plus the advantages of a more equitable, participatory, and responsive educational system and political culture. The system's final exam, however, will be based on the quality of educational institutions parents, citizens, teachers, principals, and students create within that framework. For now, the grade remains "incomplete." ♦

# Gangs in the Post-Industrial Ghetto

Jerome H. Skolnick

Over the past decade, news reports and movies have made a broad public increasingly familiar with urban gangs' colors, hand signals, and rap refrains. But to most Americans, the gangs are anything but picturesque. They have emerged as a symbol of a fearsome and depressed urban America and of American economic and moral decline. Gang murders and drug-dealing seem to confirm many Americans' worst suspicions about the dangerous poor, including the idea that self-destructive behavior is now the main cause of poverty. Consequently, the social understanding of gangs is central to the larger debate today about what obligations, if any, Americans recognize toward the poor.

Every major city of the United States has gangs, and everywhere they are feared. In many cities, the interconnected problems of gangs, drugs, and violence have touched off community marches and candlelight vigils, political discord, and anti-police sentiment. In Chicago, gang warfare is "out of control," says the president of Mothers Against Gangs, a support and advocacy group. Gang turf wars have brought Chicago the same kind of deadly street fighting that Los Angeles and the District of Columbia have recently experienced. As in eight other American cities, 1991 promises to be the deadliest in the Chicago's history, even surpassing the bloody years of the Al Capone era. And were it not for modern medicine, homicide rates would rise even higher.

The books reviewed here, all recent studies of gangs in urban America, are based on close observation and interviews with

## WORKS DISCUSSED IN THIS ESSAY

Frederick M. Thrasher, *The Gang: A Study of 1,313 Gangs in Chicago, Phoenix, 1963.*

Martín Sánchez Jankowski, *Islands in the Street: Gangs and Urban American Society*, University of California Press, 1991.

Terry Williams, *The Cocaine Kids: The Inside Story of a Teenage Drug Ring*, Addison-Wesley, 1989.

John M. Hagedorn, *People and Folks: Gangs, Crime and the Underclass in a Rustbelt City*, Lakeview Press, 1988.

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Peter Reuter, Robert MacCoun, and Patrick Murphy, *Money from Crime: A Study of the Economics of Drug Dealing in Washington, D.C.*, The RAND Corporation, 1990.



gang members and those who know them. For the past three summers, my students at the University of California, Berkeley, and I have also been interviewing mostly young, gang-affiliated drug dealers serving time in California prisons. Our observations and these books are all consistent in one major respect: gang members are not lazy and indifferent. They are tough and resourceful kids, who have committed violence and had violence committed upon them. Most of their bodies show the scars. In their world, a youngster proves manhood by fighting other gang members or by fearlessly confronting outsiders.

### *Gangs in the Twenties and Today*

The problems of poor youth and their poor prospects for jobs have been seriously affected by the deindustrialization of America's inner cities. Gangs today reflect these conditions. Yet gangs and gang violence are not new to American cities, nor are their causes or consequences novel. The classic work on the subject is still Frederick Thrasher's *The Gang*, a Chicago study first published in 1927 and still a benchmark for contemporary researchers because in some fundamental ways gangs have not changed. Thrasher interpreted the rise of Chicago's gangs as a symptom of the "economic, moral and cultural frontier" facing young males in the harsh and menacing streets of the Prohibition era. "The gangs," he wrote, "dwell among the shadows of the slum." They were formed by and responded to "a broad twilight zone" of railroads, factories, deteriorating neighborhoods, and shifting populations.

Today, when the economic opportunities of slum youth are every bit as limited as in Thrasher's day, the twilight zone is likely to be a low-income housing project, and the slum is called a ghetto or a *barrio*. Other similarities are striking. The economic incentives for joining gangs in the 1920s still exist. Most of the gang boys Thrasher studied were thieves. Stealing was the leading "predatory activity," done as much for sport as for economic reward, and was so commonplace that it entailed, Thrasher wrote, "no more moral opprobrium for the ordinary gang boy than smoking a cigarette."

There was, of course, one big difference. Of the youthful Chicago gangsters of the 1920s, few were of Latino, African, or Asian descent (Thrasher counted only 7.2 percent as "Negro"). Located in economically disadvantaged neighborhoods, the Chicago gangs were composed of children of European immigrants—mostly Poles, Italians, and Irish, along with Jews, Slavs, Germans, and Swedes. Yet the functions of gangs for slum youth and the gangs' moral posture seem scarcely different today in what we euphemistically call "the inner city." Now, as then, gangs develop a shared set of moral rules that most middle-class people would find appalling. But, as all of the books under review show, the outlook of the gangs is intelligible in their own social context.

Thrasher belonged to the influential early twentieth-century Chicago school of urban sociology, which held an almost romantic conception of the city. In that vision, modern urban life, while "socially disorganized," also brought novel experience, mystery, comedy, tragedy, and exhilaration as well as despair. Thrasher himself describes the city as a "melodrama" more exciting than the



"thrillers" in the movies. He saw gangs as a component of that vibrant life, primitive democracies that cut through social and racial distinctions. Although no two gangs were alike, Thrasher found they were all formed spontaneously and integrated through rivalry and strife. In time, they evolved singular traditions, internal structures, group solidarity, and awareness, including loyalty, morale, and attachment to a local territory.

The gangs of the 1920s, in Thrasher's view, originated out of the failure of society's "directing and controlling institutions" to provide the boys with wholesome alternatives. He traced the rise of the gangs to the "disintegration" of family life, schools, and religion, as well as to the corruption and indifference of local politicians. The employment opportunities available to these boys usually involved monotonous jobs with low wages that could scarcely compete with the rewards of the gang or with the fun of bonding and stealing. Nor did the "directing" institutions offer the boys much opportunity for "wholesome recreation."

Gangs, for Thrasher and the generations of sociologists who followed his lead, were thus not simply deplorable delinquent and criminal organizations. Formed for perceptible social and economic reasons, they fulfilled comprehensible, even universal, psychological wants. They evolved in describable patterns, met needs, bestowed advantages. Nevertheless, Thrasher was frankly appalled by the disorder and violence that he encountered. He could explain

the origins of the stealing and ferocity, but he deplored them all the same and concluded that the gangs were beyond the ordinary controls of police and other agencies. Living the life of a gang member was like surviving on an Hobbesian landscape, in a wild and unpredictable "frontier." Gang youth, he wrote, were "lawless, godless, wild."

### *Getting Inside Gangs Today*

At least in their writing, contemporary sociologists have largely abandoned both the romantic and judgmental vision of cities and gangs. In a sense, they are more faithful to their subject matter than the Thrasher generation, since they know their subjects better and are able to describe the world more accurately from the perspective of the gang member.

The world of the contemporary gang is most comprehensively explored in Martín Sánchez Jankowski's *Islands in the Street*. (A disclaimer: Sanchez Jankowski is a colleague of mine at Berkeley, and what I have to say here reflects and may be colored by my occasional conversations with him as well as my reading of his work.) Clearly influenced by Thrasher, Sánchez Jankowski improves upon him in at least two important respects. Thrasher learned about the gangs from social workers, court records, personal observation, census data, and personal documents of gang boys and others who had studied gangs. Sánchez Jankowski likewise talked with police, court officials, social workers, and the residents of neighborhoods where gangs prevail. But over a period of ten years he also lived with gangs in Los Angeles, New York City, and Boston. These gangs spanned a rich variety of ethnicities and cultures—Chicano, Puerto Rican, Central American, Jamaican, and Dominican as well as African-American and Irish gangs. In addition to this wide-ranging, patient, and even dangerous fieldwork, Sánchez Jankowski provides a more complete analytical understanding of gang organization than did Thrasher.

When introduced through the proper intermediaries, gang members will talk with interviewers. But gaining entry to observe is far more difficult. An exceptional ethnographer like Sánchez Jankowski ultimately exploits the social opportunities of the stranger, a role the German sociologist Georg Simmel described as being uncommitted to "the unique ingredients and peculiar tendencies of the group." As a stranger, the ethnographer approaches the members of a group with a paradoxical but useful combination of "distance and nearness, indifference and involvement," not seeking to advance his or her self-interest within the group. Under these circumstances, the group's members may come to appreciate and trust the stranger's objectivity.

Sánchez Jankowski was personally well-suited to gain the trust of gangs. He is a man of unusual warmth and empathy and, although he began his studies in his early thirties, he looked younger. According to his own description, he is "not white" (the Polish segment of his name comes from his adoptive father). He was thus more readily accepted by Latino and African-American gangs than by those who were Asian or white. But to be accepted is only the beginning if one wishes to go beyond interviews and do close observation. "Participant-observation" study of gangs is not like a comparable study of a hospital or

corporation. Since gangs are routinely involved in illegal activities, fear of betrayal is high. Thus, even though Sánchez Jankowski is the kind of person whom a gang member might value as a confidant, every gang at first suspected that he was not an objective observer but an undercover cop. When he left the gang at the end of the day, he was followed to see where he went. Once, some gang members believed he had informed on them and beat him up. Most of the gangs tested him to see how well he could fight and whether he had the courage for street combat, a fundamental requirement of gang membership and survival. Since Sánchez Jankowski had grown up in the projects in Detroit and subsequently learned karate, most of the testing left only bruises. He was, he writes, "only seriously injured twice."

### *Making Sense of Gangs*

Despite the danger and excitement accompanying his observational adventures, *Islands in the Street* is more than a lively, descriptive report. It is also a highly polished sociological analysis and interpretive story of why youngsters join gangs, why gangs accept them, how gangs are organized, and how they relate to the community, law enforcement, and the media.

To understand gangs, Sánchez Jankowski argues, one must first understand that their members differ from their neighborhood fellows. Not all youth seek to join gangs, nor are gangs open to every youngster. Relying on Erich Fromm's concept of "social character," Sánchez Jankowski portrays gang members as especially defiant, competitive individualists—tough, wary, self-reliant survivors who join gangs because they calculate that joining will improve their income, status, and safety. Thus they resist outside attempts to talk them out of gang membership: "they have already considered that possibility." They are, in Sánchez Jankowski's vision, rational decision makers who are responding to their life conditions. The rational understanding that their strength lies in organization explains how a group of defiant loners can hang together.

The gang is also, in Sánchez Jankowski's vision, a rational calculating organization. It decides on how many members it needs, where to recruit, whom to accept. Joining a gang is rather like joining a business. "The act of becoming a member," Sánchez Jankowski writes, "is a two-way negotiation between the individual representing himself and the individual representing the organization." Gangs possess formal structures, but these vary. Some gangs are organized vertically, with a clear hierarchy of leadership, rank, and obligation. Others are horizontally organized, that is, with several relatively equal decision makers. A third type pretends informality but actually has an observable leader who makes the decisions.

While earlier generations of sociologists saw gangs as relatively loose, incohesive groups, Sánchez Jankowski sees them as far tighter and more purposeful organizations. The two visions may, however, be compatible. In interviews with members of two Los Angeles gangs, Crips and Bloods, I have been told that while hard-core members make the gang's decisions, there are neighborhood youth who wear the colors and identify with the gangs but are really not full-fledged members. The sociologist Lewis Yablonsky once called



this wider circle a "near-group." For Sánchez Jankowski these peripheral youngsters are not gang members, nor can they float in and out. In his work, the concept "gang" refers to a discernible and purposeful organization conveying a strong personal identity. That hard core is what Sánchez Jankowski means when he uses the term "gang."

Gangs, he argues, have a "delicate and capricious" relationship with the neighborhoods where they are located. In some Chicano neighborhoods in Los Angeles, children, parents, and even grandparents have belonged to the same gang. Although the adults fear and disapprove of the violence of today's gangs, they take pride in the tradition of gang membership. In my own work with police and gangs over the years, I have found much the same kind of community ambivalence toward gangs. People who live in the projects fear the gangs, but gang members are often the sons and nephews of the very people who fear them. Thousands of Oakland, California, residents turned out for the funeral of Felix Mitchell, the Al Capone of Oakland's drug scene, after he was assassinated by rival inmates while in custody in federal prison. In this respect, as Sánchez Jankowski observes, people in gang neighborhoods may identify with gangs and their "resistance" to the authorities. And gangs sometimes

perform a service, by protecting the property and persons of community residents from other gangs. Still, the gangs can be brutal to people in the community who resist them or threaten to turn them in to the police.

For the gangs, it pays to maintain positive relations with neighborhood residents. The community provides a safe haven for gang members against their antagonists, the police, and other gangs. Police find it extraordinarily difficult to infiltrate youth gangs, because recruitment takes place among friends, relatives, and "homeboys" within the neighborhood. Police can per-



suade some gang members to turn on others after they have been arrested, but rarely, if ever, have I heard of local police introducing an informer into a gang, as the FBI has occasionally succeeded in doing with Mafia families.

Sánchez Jankowski's discussion of the relation of gangs to the government is one of his most interesting and innovative chapters. Thrasher had found that gangs performed small services and campaign tasks for local political bosses in Chicago in the 1920s. Sánchez Jankowski found that gangs and politicians maintained direct contacts only in New York and Boston. Politicians in both cities recognized the community ties of the gangs, while gangs recognized that politicians could do favors for them. Even in Los Angeles, where politicians and gangs were distant from each other and often antagonistic, they maintained an "expedient exchange relationship," with each undertaking activities that met the needs of the other. Just as the private security industry is the economic beneficiary of criminal activity, so does gang activity tend to generate public support for social programs, which are controlled by street-level politicians. Contacts between the gangs and politicians are, however, intermittent, since the public image of gangs is so negative.

### *Gangs, Drugs, and Violence*

The image of gangs has further declined as gangs have become more involved in the drug trade. The relation between gangs and drugs is complex. Chicano gangs in Los Angeles are not primarily involved in selling crack cocaine, but they sell other drugs. Their slight involvement in the crack trade is puzzling since cocaine is grown and processed in Central America and transported through Mexico to New Mexico and Arizona by Spanish-speaking smugglers. Yet it is sold primarily by African-American youth who may or may not be gang members.

Not all gangs sell drugs. The Los Angeles gangs, composed of neighborhood "sets" of Crips and Bloods, do not sell drugs as a gang, nor are they hierarchically organized. But many, if not most, of their members do sell drugs, and gang membership offers several advantages to drug sellers. Gang members are expected to protect other homeboys from police or rival gangs. Members can rely on the gang for physical protection if threatened within or outside gang turf and are better able to control markets within that turf. Involvement in the drug trade, according to interviews that my students conducted this past summer, seems to have eroded the loyalties of gang members to each other and their neighborhood. Nevertheless, gang membership still offers advantages, including access to sources of marketing information, such as who is selling which drugs for what price, and where drugs are available. In illegal markets, where there are no commodity exchanges, marketing information is even more valuable than in legal markets.

For gang members, violence is part of life, but it is not necessarily connected with selling drugs. Sánchez Jankowski finds that much of the aggression is directed at others who challenge the honor or seem to "disrespect" the homeboys. In the assertive and lawless street world where gang members live, as in the international world of nuclear weapons, the appearance of vul-

nerability may invite aggression; consequently, the maintenance of "respect" is strategically sensible. Others in the community, Sánchez Jankowski says, must understand that you do not fear to retaliate if they step over some imaginary line.

Gang members are, as Sánchez Jankowski emphasizes, defiant individualists and outlaw capitalists. Underground social and economic organizations and individuals cannot call the police when they are robbed, or sue when a contract has been breached. They must defend themselves, and like nations that stock an oversupply of nuclear weapons in the interests of deterrence, gang members need to present an impenetrable exterior to those seen as threatening their status, honor, or economic advantages, especially when they are marketing drugs.

The drug trade is harsh and dangerous, and others in the trade are more threatening than the police, who arrest but do not usually kill or maim. Nor does the drug trade routinely bestow the easy money so often portrayed by the media. Lower-rung dealers do not drive BMWs, wear gold jewelry, and get rich quick. They work round the clock, six or seven days a week, for low wages, often enforced by threat of violence.

The drug business of gangs is vividly described by Terry Williams, a sociologist who spent more than 1,200 hours over a period of five years observing a primarily Dominican drug gang in Washington Heights, the upper Broadway locus of Manhattan's drug scene. Williams's book, *The Cocaine Kids*, is not nearly as comprehensive or analytically ambitious as Sánchez Jankowski's. But by concentrating on one group of "kids" who are middle-rung dealers, Williams is better able to offer an insider's account of the daily round of life, aspirations, and motivations of drug dealers.

While not denying that the "cocaine kids" are anti-social dealers responsible for death and violence, Williams also portrays them as "struggling young people trying to make a place for themselves in a world few care to understand and many wish would go away." The kids have learned a trade, which involves knowing how to buy cocaine, cook it into crack, sell, and survive. In their world of limited opportunity, the cocaine kids learn that trade not only to make money, but to show their families and friends they can succeed at something.

### *Vanishing Industrial Work*

Blocked opportunity is also the theme of *People and Folks*, John Hagedorn's study of gangs, crime, and the underclass in Milwaukee, Wisconsin. Of the three books, Hagedorn's is the most emphatic and systematic in linking gang development and behavior to the decline of the traditional American industrial base. However bad the economy might have been for the black community in Milwaukee during the 1960s and 1970s, the 1980s were worse. Thirty-five thousand jobs were lost to the Milwaukee area between 1980 and 1985. The unemployment rate for black workers in 1985 was 27.9 percent, the second highest in the nation.

Hagedorn argues that it is important to study gangs locally, and it surely

is if one wants to understand the natural history of the local gang, as Thrasher did. But the story of the economic and social deprivations of African-American youth in Milwaukee is depressingly familiar and similar to patterns in many other American cities. Between 1973 and 1986, real earnings of black males declined by 31 percent as the percentage of black males in the work force continued to decline. Nearly a fifth of black men in America have spent time in jail or prison, and minorities populate our jails and prisons far in excess of their percentages in the population. In all of the gang studies reported here, the ganging together of youth is fundamentally a response to social conditions. Male bonding groups and delinquency exist in all communities. But gangs are a correlate of impoverishment, blocked economic opportunity, and social disintegration. As Thrasher's work shows, this pattern is long standing. The distinctive element now is an explosive combination of drugs, advanced weaponry, *de facto* racial segregation, and severely declining economic opportunity.

As we move from an industrial economy that promised jobs to a broad range of workers, to a post-industrial world that increasingly offers rich rewards to skilled professionals but low-paying service jobs to the least educated, we see an increase in economic inequality as well as in poverty. The Reagan years also have reduced such opportunities as "jobs for youth" and other social programs as alternatives for potential gang kids. Commenting on the decline of factory jobs, Terry Williams said recently in an interview: "Without these options they turn to the illegal world. If there wasn't already an illegal market (in this case, drug dealing) they would have to create one."

The risks of drug dealing, as the RAND study, *Money From Crime*, finds, are quite high, but drug dealers pass on the costs through high prices. About half of the average drug dealer's earnings can be considered as compensation for "incurring the risk of imprisonment or of . . . a market-related killing." Whether through stealing or, more likely, selling drugs, young, male, outlaw capitalists have found an alternative economic path.

Capitalism offers few, if any, moral cautions against moderate risk-taking—a point underscored by the peccadilloes of such presumably exemplary capitalists as Wall Street investment bankers and Sunbelt savings and loan executives. Although the wrongs of the rich do not justify the wrongs of the poor, they send a message of widespread rule breaking. Capitalism needs moral and regulatory institutions, whether religious or secular, to restrain risk takers at every rung of the social ladder.

The criminal law is one of these institutions, but it works effectively only when most of us accept it as a moral force. Most of us do not refrain from killing, robbing, and raping because we expect punishment for crime, but because we believe those acts are morally wrong. In the Hobbesian world of gang enterprise, the criminal law must rely primarily on its capacity to deter through threat of punishment. The threat simply does not work very well. Gang members are young and tough, and risks of arrest and imprisonment are already quite high. Moreover, as the RAND study found, "Death and serious injury resulting from the actions of other participants [in the drug trade] may

be more important in determining both who participates and what they earn than are risks imposed by the criminal justice system."

### *Ganging Up on Each Other*

By now, we have become all too familiar with the fact that black-on-black homicide is the leading cause of death of black males between the ages of eighteen and thirty-four. How that appalling fact came to be, and what might be done about it, is the theme of John Singleton's film *Boyz n the Hood*. Although sometimes slow-moving and predictable, the film created by the twenty-three-year-old Singleton is a compelling, profoundly disturbing, yet marginally hopeful vision of life in south Central Los Angeles. Unlike the less interesting, more commercial, and violent film *Colors*, which portrays gangs with mythic, almost comic-book, caricature, *Boyz n the Hood* pictures gangs as an ominous, ever-looming homicidal threat to the lives and stability of community residents, but mostly to boys and young men.

For those young men, the gang is an enticing, deadly social force accounting for the stark statistic shown at the beginning of the film: "One out of every 21 black American males will be murdered in their lifetime. Most will have died at the hands of another black male." The neighborhood is portrayed as a zone of violence from which there is no escape. Police helicopters buzz overhead, and the cops themselves are a hapless, insulting, and dangerous enemy.

The plot evolves around the coming of age of three friends. At the heart of the story is Tre (Cuba Gooding, Jr.) whose ambitious, education-seeking mother, Reva Deveraux (Angela Bassett), sends him to live with his father, Furious Styles (Larry Fishburne), a strong yet loving disciplinarian. While Tre has been modeling himself on the defiant and aggressive styles of the gangs, his father is intent upon transforming him into an accomplished, middle-class professional, with concerns for the African-American world of his roots. Tre meets and grows up with two half-brothers, Ricky, played as young man by Morris Chestnut, and Doughboy, acted brilliantly by former N.W.A. rapper Ice Cube.

Each boy represents an aspect of young black manhood. Tre is intelligent and thoughtful, the sort of young man who could attend college but is also susceptible to being lured into the world of the gangs. In the absence of a strong father, Singleton suggests, that is where Tre would go. Ricky has the kind of athletic ability that can provide an avenue out of the ghetto. A marginal student, he is just good enough to meet the minimal requirements for an athletic scholarship. Yet Ricky understands that he may not develop into a star in big-time college football. His half-brother, Doughboy, is a gang member and drug dealer, both a protector and a threat to the neighborhood.

Aside from Ice Cube, the most memorable and compelling character is Ricky and Doughboy's mother, Brenda (Tyra Farrell), a single black woman who has had a life of hard times and good times with men and alcohol. Angry, street smart, and street tough, with a vocabulary that might shock a longshoreman, Brenda nonetheless remains warm, caring, and vulnerable as a mother. Unlike Tre's mother, who has made it out of the ghetto to enter the world of the young, urban professional, Brenda typifies the single black

mother struggling to raise young men in the chaos of the gang culture and drug dealing of the neighborhood.

For Singleton, the single black woman is the victim of the sexist, irresponsible, and violent culture of the streets. Doughboy, the gang member, is so sexist he doesn't "get it" when his girlfriend asks him why he calls all women "bitches" and "hos," which is obviously also his opinion of his own mother. At the same time, he and the other male gang members are supremely sensitive to any hint of "disrespect." In the movie as in life, this sensitivity heightens the black male homicide rate.

Yet, as the title suggests, the boys are the products of the 'hood, and the neighborhood is the by-product of the larger society. Instead of offering tangible support to women like Brenda, or even worse, to a teenage crack addict whose baby is neglected, the larger society makes the helicopters and occasional police car its primary and ineffectual response. But the 'hood, as shown by Singleton, is by no means all bad. Outside the constraints of gang membership, the boys are complex and even caring. They are disgusted with a young crack addict mother and show concern for the safety of her baby. They are tied by strong bonds of loyalty to one another and generously support each other's needs and aspirations. Yet the film also shows other young African-American men, much like themselves, who are their rivals, waiting for them to make the slightest insult, the punishment for which is death.

The movie's most positive character is Tre's father, Furious Styles, whose very name combines several strains of confident and assertive black manhood. Only seventeen years older than Tre, Furious is determined to discipline him, to turn him into a stellar and achieving person. When we are introduced to Furious, he is lifting weights, and he owns and knows how to use a gun. Furious understands that the 'hood is a dangerous place. Gangs rule the territory, addicts will rob your house, and the cops will not only fail to protect you but harass you as well. Yet he believes in education, particularly in black culture and history, and in taking responsibility for his son and the future of the black community. He is the role model Singleton represents as the future African-American man.

Despite its portrayal of the dangers of the ghetto, *Boyz n the Hood* is a movie about hope and choice. Tre and his girlfriend, who fears becoming pregnant, make the right choice and go on to college. Ricky's fate is tragic. He does not grasp how much he has already limited his future by marrying young and having a child now being raised by a teenage mother and Brenda. But it doesn't matter, for he is fated to be a homicide statistic. He and Tre run an errand to a local store where they encounter a gang who believe Ricky has insulted them. They kill Ricky, and when Tre and Doughboy carry Ricky's body home Brenda accuses Doughboy of his death. Later we learn that Ricky had scored high enough on his SAT test to qualify for a college scholarship. Ricky had made the right choice to go to college, but the gang culture denied him the opportunity to carry it out.

In a sense, Doughboy killed Ricky indirectly by drawing him into the world



of the gangs and their values of defiance, retaliation, and honor. But Doughboy is also a victim. When they were youngsters, Doughboy tried to protect Ricky from a gang member who had stolen Ricky's football. In return, the bully kicked Doughboy viciously in the stomach, teaching him the lesson of strength. According to Doughboy's code, he feels he must avenge Ricky's death. Tre joins the hunt, defying his father, but then backs out and returns home, aware that he is being sucked into a vortex of violence that will soon be inescapable. We know that Doughboy is doomed. He succeeds in killing his brother's murderers but is later killed in retaliation. And so the mad cycle continues. At the movie's end, Tre leaves the 'hood to attend an African-American college.

### *The Post-Industrial Ghetto*

The movie's message of limited choice is similar to the conclusions of the gang researchers. The only escape from the 'hood, from a life of gang activity, drug dealing, stealing, and retaliatory violence is self-help and higher education. Nowhere does the possibility of industrial or craft labor appear relevant to Singleton. Unlike the social realist movies of the 1930s that called for labor unions and the unity of factory workers, this equally social realist movie does not even make a glancing reference to the world of industrial work. Yet the absence of that kind of work means the loss of opportunity and personal discipline. This is no criticism of Singleton; it is the world where this remarkable young filmmaker grew up. The economic and social scene he presents is lamentably accurate. A few will make it to the top through higher education. The rest are consigned to low-paid service work, welfare, or early destruction through drugs or homicide.

Like the gangs it produces, the 'hood is a product partly of racism, but more fundamentally of a post-industrial world of limited choice. The children of the immigrant gangs of the 1920s usually left the gang as they matured. The classical "juvenile delinquent" was said to "mature out" as he grew older. As modern gang members mature, there are fewer economic alternatives. Gang members, as the books under review show, are growing older.

So long as the federal government fails to provide alternatives, either by furnishing real jobs rebuilding America's infrastructure or by paying ghetto youngsters to attend school, as we did with World War II veterans, the 'hood portrayed by Singleton will tragically flourish. Our present policies of warring on drugs and crime may supply a limited number of jobs to minorities as cops and correctional officers, but they do nothing to advance the quality of life and the opportunities of young, poorly educated men. We need imagination and commitment to broaden their range of choice.

The more thoughtful cops I know understand that gangs, drugs, and crime are ultimately a national social problem. "If I had to blame one sole source for gangs spreading across the country, it's the inaction of the Federal Government," Sergeant Wes McBride of the Los Angeles Sheriff's Department told *The New York Times* not long ago. "We need schools, social programs and enhanced law enforcement," he added, "but that costs big bucks, so politicians hate to address the issue." Unfortunately, he's right. ♦

# Domestic Urges, Foreign Obsessions

Richard J. Barnet

In a typical week a reader of U.S. newspapers learns over bran flakes and coffee that the health crisis or the S&L bailout is bankrupting the country; that there is no money to repair bridges or to deal with nuclear waste; that schools and libraries are cutting programs or closing down; that tens of millions of young Americans will be unable to compete successfully for jobs in the new information-based economy because schools do not teach; that America's competitiveness problem is worsening; and that the government is presumably paralyzed because the federal deficit is out of control.

Nations prosper only by adapting to new circumstances. That means being willing to hear bad news and do something about it. Japan's great achievement at the end of World War II was to turn adversity to its advantage, as if by *jujitsu*. But since the curtain came down on the Cold War the adaptive mechanisms in the United States have not been working. The President is not offering a practical vision of a strong and democratic American economy, and the result is that confidence in American power and leadership is declining.

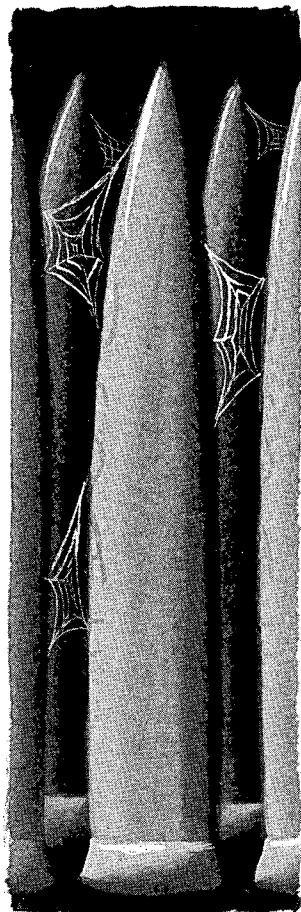
George Bush has made no secret of the fact that he prefers making foreign policy to grappling with any of these problems. The reflex reaction in the White House and the Pentagon to the collapse of the communist enemy has been to identify new enemies and to find ways to make such weapons as the B-2 bomber "relevant" to a world that has passed it by. In early 1990 President Bush announced that instability was now the military threat, and later that year the word acquired a human face

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Carl Kaysen, Robert S. McNamara, George Rathjens, "Nuclear Weapons After the Cold War," *Foreign Affairs*, Fall 1991.

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when Saddam Hussein struck at Kuwait. Whether the Gulf War served the national interest is now a matter for the historians, but it surely served the interests of the President. As commander in chief the President is defender, father figure, and in a crisis, the embodiment of the nation. There is no solution to the health crisis or the banking crisis that will yield 89-percent popular support, as the Gulf War did. It is far easier to interpret the new political situation in the world to fit old strategies and old weapons systems, shifting targets where necessary, than to develop a new security strategy that fits the extraordinary changes that have taken place within the United States and the emerging world system.

**T**he fact that foreign policy expenditures constrict domestic choices is a familiar, though inadequately debated, idea in American politics. Less familiar is the role of domestic economic weakness in circumscribing foreign policy choices. The United States is becoming increasingly locked into a world economy over which we exercise less and less control. The result is that the U.S. economy, debt-ridden and still unable to compete in the marketplace in critical areas of high technology and consumer goods, is transformed in ways that diminish the economic security and quality of life of millions of Americans. And the same loss of economic strength and the social instability caused by the neglect of mounting domestic problems undermines the ability of the United States to bring its power to bear on critical security problems beyond our shores.

It is incongruous that while pundits celebrate the emergence of the United States as the world's only superpower and every formerly communist nation wants a piece of the American Dream, the Bush administration is strangely passive in confronting the extraordinary new world in the making. The goal of United States foreign policy for almost fifty years has been achieved, but the White House does not know what to make of the collapse of Soviet power and the breakup of the Soviet Union. Does the United States favor more fragmentation in the name of self-determination or more union in the name of economic efficiency? The answers are not easy, but, tragically, the United States has neither a clear vision of what it desires, nor money to put behind its wishes, and what may well prove to be the most momentous events of the century are taking place beyond the reach of any significant American influence.

Even in the Middle East, where the U.S. rolled back Saddam's invasion and succeeded in dragging the Arab nations and Israel to the negotiating table after eight months of trying, the prospects of a comprehensive, lasting settlement are not encouraging. They might well be better were the United States in a position to make the sort of extravagant offers to promote regional economic development that Secretary of State George Marshall made at the end of World War II with respect to Europe. But that is now out of the question.

The nations of Western Europe have just voted to create the European Economic Area, the world's largest trading bloc embracing 380 million producers and customers from the Arctic Circle to the Mediterranean, and this new creation threatens to pose even stiffer competition for the United States.

Yet Europe is by no means united, and the continent faces historic decisions about who will be in and who will be out, and on what terms. On the one hand, the myth of a Europe stretching from Gibraltar to the Urals has a powerful appeal, one on which the former communist nations of the East are banking. But to admit Poland, not to mention an independent Croatia, would dramatically widen the gaps among the members and would make steps toward greater monetary and political union more difficult. The wider these gaps, the harder it becomes to establish continental institutions.

The United States has an urgent interest in a Europe that is at peace and that does not wall off the huge continental market it is creating. While the United States hangs on to NATO to symbolize the fact that it is, in the words of senior administration officials, a "European power," the administration is mobilizing astonishingly little energy to address the critical economic issues that will play the dominant role in U.S.-European relations in the next century.

Bush's principal response to a united Europe has been to seek a North American free trade agreement as a step toward a Western Hemisphere free trade area. But this collection of the most debt-ridden countries in the world is not much of a bargaining chip in negotiations over global trade with Europe and Japan, nor in a world divided into blocs is it likely to be a bastion of economic strength. Over many years somewhere between a third and 60 percent of the U.S. military budget—depending on definitions and what you count—has been attributable to the defense of Europe. New policies can and should be developed that take proper account of the good news from the Cold War battlefields of Europe and the bad news on the domestic front.

**R**ichard Ullman, professor of international affairs at Princeton, has written a fine book full of believable good news and practical ideas for taking advantage of it. Since so much of the United States military budget continues to be attributable to the security problems of Europe, which have also provided the primary drive behind the nuclear arms race, this is a book anyone interested in either national security or the fiscal crisis of the United States should read. Agreeing with George Kennan that the Soviet Union presented primarily a political challenge rather than a military threat, he points out that the political conditions under which NATO was established have totally changed. Historians can argue about whether the expenditures to arm against "worst-case scenarios" were worth the price the United States is still paying, but there is no justification now for spending well over \$100 billion a year to defend Europe.

Ullman's analysis points to a clear conclusion. It makes no sense to keep alive either NATO's Cold War strategy or organization except for a brief transitional period during which a new European security system is put into place. For the foreseeable future the Soviet Union will have neither the incentive to attack the West—if it ever had one—nor the capability. The collapse of the Warsaw Pact and extraordinary changes inside the Soviet Union, as senior U.S. military and intelligence officials have testified, make a surprise attack virtually impossible. To reclaim its Cold War posture would take a long time even if new leadership



in the Kremlin had the will to do it. The enemy against which NATO was called into being no longer exists. Neither do the weak, divided, and demoralized nations of West Europe that called upon the United States to be their protector.

All the major political underpinnings of NATO have been rendered obsolete by the Cold War victory. At the beginning U.S. troops had as their primary task the restoration of confidence in a war-torn West Europe facing Stalin's armed camp. The confidence levels and signs of stability in much of West Europe, judging by a number of social and economic indicators, now exceed our own. The strongest political argument for NATO was that it would anchor West Germany in the West and undermine the greatest power the Soviets had over the United States and its allies, the power to dangle reunification in front of the Germans and cause them in effect to change sides. But reunification is an accomplished fact, and the price was modest indeed. Germany has no interest in being a "loose cannon" in Europe—quite the reverse. And if it did, 50,000 to 75,000 American troops left on German soil—the figures talked about just a few months ago—could do little about it. Any idea that an American division or two can play such a role can only irritate U.S.-German relations.

The favorable developments in Europe should point the way to new policies. Thanks to economic integration, and as Ullman points out, the growing perception that the physical control of territory is of declining importance and the use of force is of declining utility for great powers in securing political objectives in Europe, there is less incentive and less likelihood of war among nations on the continent than at any time in modern history. He argues that the United States should, therefore, encourage an independent European security system, building on the Conference on Security and Cooperation in Europe (CSCE) and the Western European Union (WEU). The goal should be the development of integrated European forces at significantly lower levels and machinery for peaceful dispute resolution such as the CSCE's new Vienna-based Center for the Prevention of Conflict.

The primary security threat in Europe in the coming years is likely to be civil war in the East and the stream of refugees left in its wake; the task of military forces will be to wall off and damp down such conflict before it spreads. The European response to the outbreak of civil war in Yugoslavia in June has been halting, confused, and as of late November, ineffective. But the United States is nowhere to be seen. It is, of course, in a much worse position than a European force to intervene militarily on the periphery of the Soviet Union, and to involve American troops in a bloody civil war in the Balkans is not an attractive option for the President. But the security dilemma in Europe makes it clearer than ever that a national security priority for the United States is far-reaching world disarmament and control of weapons traffic. As the world's greatest military power the United States is in a position to take advantage of the changes in the political climate around the world, including the settlement of the major Cold War-related civil conflicts in Asia, Africa, and Latin America, to initiate a process of demobilization and demilitarization which offers the only hope



of controlling weapons development and arms traffic.

Although Bush's unilateral initiatives on curbing nuclear weapons are the most sweeping since the development of the atomic bomb, both the cost savings and the disruption of the U.S. arms industry are modest. Bush emphasized that there would be no "peace dividend." Indeed, the immediate impact would be a budget increase to pay for the "mothballing" and deactivation measures. Bush's program is designed to make living with nuclear weapons safer. Although he justified the move on the dramatic disappearance of the old Soviet threat, there has been no discernible rethinking of the relevance of nuclear weapons to the security problems of the post-Cold War world. Nuclear deterrence was built on the notion of a two-man chess game. But nuclear stockpiles do not deter drug traffickers or enraged mobs or terrorists or separatist armies any more than elephant guns deter flies. The idealized super-rational enemy, big enough, evil enough, and aggressive enough to be the target of a global war machine, has disappeared into thin air, leaving a disorderly world to which the established nuclear strategy is utterly irrelevant.

Given what has happened to the Soviet Union, the risks of unauthorized use of nuclear weapons in the event of civil strife there, the drive by Iran, Iraq, and other nations to acquire nuclear weapons and the disturbing indications that the spread of nuclear weapons technology in the international black market is accelerating, it is now urgent for the United States to rethink its nuclear policy. In the interest of slowing proliferation, saving huge financial costs and avoiding health risks, the President should announce that production of weapons-grade fissionable materials will not be resumed. He should also promptly negotiate a comprehensive test ban. Further, the U.S. should declare that once again—as in the Acheson-Lilienthal proposals following the Hiroshima and Nagasaki bombings—this nation takes seriously the goal of abolition of nuclear weapons, as a crucial component to reduce the role of force in international relations. Far from being a utopian view, this approach's advocates include prominent former national security officials, such as Robert McNamara.

No nation has more to lose in a world of nuclear anarchy than the United States. Because this nation is the world's leading nuclear power, it retains considerable potential as a prime architect of a new security system. But that influence is waning fast, as weapons spread. Only a "minimum deterrent" force, ranging from dozens to about a hundred weapons, and a clear commitment never to use nuclear weapons except in retaliation for a nuclear attack, will send the message that the United States and the other nuclear powers are committed to a post-nuclear order. Sending such a message is essential to a non-proliferation strategy, but it is obviously not sufficient. The strategy will also require unprecedented cooperation among the present nuclear powers and tight international controls on fissionable materials and nuclear technology. To accomplish any of this will require the great powers to limit their use of arms sales as a prime lever of geo-political influence.

While the threat of great power nuclear holocaust has receded, the insertion of nuclear weapons into the disorders of the post-Cold-War world increases the risk of their actual detonation. Unlike the Cold War antagonists, some of

the aspiring nuclear powers, faced with perceived life-and-death struggles, might actually use nuclear weapons. Technological advances, verification, and, more important, the more open world now emerging, make a post-nuclear order possible, and necessary. Therefore, the disorders of the post-Cold-War world make the elimination of the nuclear threat the highest possible foreign policy priority for the U.S. There can be no security as long as these weapons are considered legitimate instruments of warfare or politics.

In the emerging world order, peace and stability in Eastern Europe and outside of Europe will depend less on deterrence and more on crisis prevention—the defusing of political situations before they erupt in violence. Crisis prevention machinery should be under a United Nations umbrella because the U.N., for all its problems, is the only international organization with both a political mission and a global charter. The task of keeping the peace and creating the conditions of stability in the post-Cold War world will take much more active and coordinated diplomacy among the Cold War-era allies, large amounts of money for the repair of environmental damage and for the re-tooling of industry to prevent further damage, for development aid and investment, and for a new set of minimum environmental and labor standards for the conduct of world trade.

As the economic, social, and ecological agenda becomes more central, more expensive, and more difficult, it is in the U.S. interest to downgrade the military dimension of its relationships with its allies and partners. The idea that the U.S. military role, either in Europe or in “out of area” conflicts can still be used to exact economic and political concessions from America’s allies is dubious, given European behavior since the Gulf War. Moreover, it is in the U.S. interest to institutionalize responsibility for police operations, in an international force in the service of agreed international principles regarding the use of force. Taking over the policy role unilaterally has led to American weakness, not strength. And ad hoc military coalitions put together in crises are precarious and unstable. It is not a brilliant strategy to continue hectoring Germany and Japan to play a more expansive global military role at a time when economic conflicts between the U.S. and its principal allies are intensifying. All three economic powers share a common interest not only in diverting investment from the military to their industrial bases and supporting infrastructure, but also a common strategy to raise wages and improve living standards in developing countries in order to expand the world market. But no such common strategy yet exists.

The dismantling of obsolete military structures increases the possibilities of constructive American engagement with Europe. The U.S. commitment to Europe requires an evolving set of political and economic relationships that fit the world of the 1990s rather than the world of the 1950s. We are living in a world of increasingly visible violence, but neither the nuclear weapons stockpiles, the rapid deployment forces, the NATO forces, nor the “low-intensity warfare” capabilities which make up so much of the military budget address the disorders of a world that is no longer engaged in a global conflict. A president willing to give up the illusion of organizing the world by projecting military

power would have a decent chance to mobilize the money, energy, and will to rebuild and govern this society.

The United States can best influence the shape of the new Europe by rebuilding American society and defining and pursuing a global economic agenda. The faster the nation deals with its domestic crisis, the stronger will be its position with respect to the trade and investment issues that are the major source of conflict among the economic great powers. These include the irrationality of the present ground rules for world trade, the confusion about whether to welcome or fear European and Japanese investment in the United States, and the challenge of increasing the accountability of transnational corporate actors, irrespective of the flag they fly. We need new rules not only to redefine this nation's commercial relations with its trading partners, but to establish a common approach between nations and global private finance and industry. A concerted effort by the industrial democracies to deal with the global environmental crisis, which threatens the very processes by which wealth is created and life sustained, is an obvious security priority, too.

Thus, the primary political task for the United States is to develop a new foreign policy that will permit the renewal of our political institutions, industrial and commercial enterprises, and population centers. The primary intellectual task is to redefine the relationship of the United States to the radically changing political, economic, and ecological environment. Alan Tonelson, research director of a Washington think tank, has taken on this task in a recent issue of *The Atlantic*, and his efforts demonstrate how difficult it is to rethink the national interest. He attacks "internationalism" with familiar arguments, most of which I find congenial. In its Wilsonian quest for a new world order, the United States believed its own overblown rhetoric about the "indivisibility" of peace. The U.S. defined its "vital interests" in wildly extravagant and implausible terms, "bearing any burden, paying any price" to bring peace and prosperity to the farthest reaches of the globe. Military interventions, para-military operations, peace-keeping missions, foreign aid programs—all of which the author lumps together as instruments of misguided idealism—exhausted the country. "American foreign policy has been conducted with utter disregard for the home front largely because it has been made by people whose lives and needs have almost nothing in common with those of the mass of their countrymen." I nodded and read on.

I stopped nodding when it became clear that what Tonelson calls "interest-based thinking," a term I found intriguing, is astonishingly close to the "America First" mindset of the prewar isolationists. The isolationist impulse is in the American grain, reinforced daily by so many different forces in our culture. The "internationalism" of the Cold War era against which the author rails is in reality a virulent strain of isolationism; a nation that can realize its dreams of running the planet doesn't have to learn to live in it. Tonelson dresses up his prescriptions for withdrawing from the messy world beyond our shores with the language of hard-headed realism. Anarchy within and among nations is inevitable. All sorts of genies are out of the bottle. Nothing much can be done about the international system. Americans should look after themselves.

Hunker down. It is by no means obvious that Tonelson's version of isolationism is a less honorable policy than the current version under which our leaders feel compelled to teach lessons, enforce international law as we define it, and set other societies straight in arbitrarily selected countries around the world. The problem is that it is every bit as much a dream as Pax Americana.

The "interest-based" foreign policy Tonelson recommends would not be a vehicle for spreading American values but would reflect tough-minded assessments of domestic interests which "can and must be distinguished from the interests of the international system itself." An exception would be made for policies that are against the national interest but are popular. There is "nothing intrinsically wrong," he says, with a policy that does not serve the national interest, provided it is based on "the preference or whim of the majority." We have entered a swamp.

This curiously old-fashioned analysis with its talk of "avoiding problems, reducing vulnerabilities and costs, maximizing options, and muddling through" is silent about the increasing dependence of the United States on the world economy, the AIDS pandemic in Africa that is spreading to Asia, the global ecological crisis, the huge mass migration that is transforming the demography of the United States and other places, and the transformation of the institution of the nation-state itself. His call for less bombast and mindless activism in foreign policy is a welcome corrective, but his policy is defeatism. He calls for "disengagement" from the Third World, correctly noting that hysteria, confusion, and complicity in corruption and human rights abuse characterized much of our policy in the past. His advice is to wall ourselves off from the tragedies that threaten the species to pursue policies that enhance "the domestic quality of life." True, Cold Warriors, muddled geopoliticians, and naive romantics have written a good deal of nonsense about the Third World, that peculiarly ethnocentric and now anachronistic designation we still use for the majority of people on the planet. But Tonelson's call is a contradiction in terms. Refugees, viruses, drugs, terrorists, and foul air are no respecters of borders. There is no way we can improve the quality of life for the next generation of Americans, much less posterity, by ignoring the conditions of two-thirds of the human species and the natural order in which we all live.

It is inconceivable that the world's major military and economic power will now shrink from trying to exert influence on the international system. Our own security and prosperity depends increasingly upon what happens to that system. This is a time when more issues are open and the system is less frozen than it has been in a long time. It is an exciting and dangerous time which cries out for real leadership in helping to shape a new understanding of what a nation is, of what the international system is becoming, and of how its anarchic character might be moderated. The United States could not impose its vision of world order even if it had one. To exercise leadership requires a healthy respect for this nation's limitations, but also a willingness to face the real world of which we are inevitably a part. Flinching is not an option. ♦

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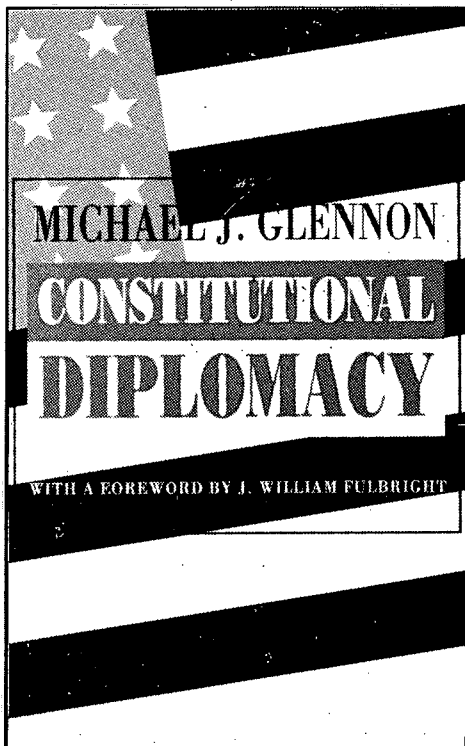
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